

TOPPENISH JURISDICTIONAL SHORELINE MASTER PROGRAM

Adopted by the ~~Board of Yakima County Commissioners~~TOPPENISH City Council
~~By Ordinance 14-2007 and Ordinance 13-2007 on December 18, 2007~~
~~Approved by the Washington State Department of Ecology and~~
~~Effective on February 25, 2010~~

SHORELINE MASTER PROGRAM REGULATIONS

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SHORELINE MASTER PROGRAM GOALS AND POLICIES – YAKIMA COUNTY COMPREHENSIVE PLAN 2015 –	

Natural Settings Element

XX.01.01 Below are the Goals and Policies for the Shoreline Master Program, ~~which legally reside within Yakima County's Comprehensive Plan 2015.~~ These Goals and Policies were updated in 2007 to be consistent with the SMP Guidelines (WAC 173-26), ~~and adopted by the Yakima Board of County Commissioners by Ordinance 14-2007.~~

SHORELINES

PURPOSE STATEMENT NS-7

The goals and policies of the Shoreline Master Program are directed towards land and water uses and their impact on the environment. As the population continues to increase, the pressures upon our shorelines will also increase. The goal of the Shoreline Master Program is to protect the shorelines of the state.

GOAL NS-7.01: Implement the general policy goals of the Shoreline Management Act as listed below (WAC 173-26-176(3)):

- a. Utilize Shorelines for economically productive uses that are particularly dependent on Shoreline location or use.
- b. Utilize Shorelines and the waters they encompass for public access and recreation. c. Protect and restore the ecological functions of Shorelines.
- d. Protect the public right of navigation and corollary uses of waters of the state.
- e. Protect and restore buildings and sites having historic, cultural, and educational value. f. Plan for public facilities and uses correlated with other shoreline uses.
- g. Prevent and minimize flood damages.
- h. Recognize and protect private property rights.
- i. Preferentially accommodate single-family uses.
- j. Coordinate shoreline management with other relevant local, state, and federal programs.

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~~GOAL NS-7.02:~~ Protection measures for local Shorelines should use the following Shoreline Management Act principles in order of preference as listed below (RCW 90.58.020):

1. Recognize and protect the state-wide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long term over short term benefit;
4. Protect the resource and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

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~~GOAL NS-7.03:~~ Maintain, restore and where necessary improve the shoreline terrestrial and ~~—~~ aquatic ecosystems so that they maintain viable, reproducing populations of plants and animals while providing the maximum public benefit of limited amounts of shoreline areas. Accomplish this through the policies in the required shoreline elements listed below.

SHORELINE ENVIRONMENTS

~~GOAL NS-7.04:~~ Shorelines areas should be classified into specific environmental designations. The designation system should be based on the existing and future land use pattern as well as the biological and physical character of the shoreline. These ~~—~~ environments should include the Urban, Rural, Conservancy, Urban Conservancy, Natural and Floodway / Channel Migration Zone (CMZ) environments. Land uses and activities should be limited to those that are consistent with the character of the environment designation.

Urban Environment Policies

~~NS-7.05~~ The Urban environment is to be used for the most intensely developed areas, or areas where intensive development is desirable or tolerable. The basic principle in an Urban Environment is oriented toward quality of development in harmony with the shoreline. The Urban Environment should ~~insure~~ optimum utilization of shorelines occurring within urbanized areas by providing for public access and by managing development so that it enhances and maintains the shorelines for a multiplicity of uses.

~~NS-7.06~~ The following criteria should be used for the designation of Urban Environments:

1. Areas presently supporting high intensity land use including residential, commercial, industrial and recreational uses.
2. Areas which are planned to accommodate urban expansion of residential, commercial, industrial and recreational uses.
3. High land values.
4. Major public or private capital investments.
5. Close proximity to services and utilities.
6. Few biophysical limitations to development.
7. Potentially low flood hazard.

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NS-7.07 Water-oriented commercial, industrial, and recreation uses should be given high priority in the Urban Environment, and may be accompanied by non-water oriented uses in mixed-use developments. Residential uses should be discouraged. Recreational uses are preferred uses within the urban environments

Rural Environment Policies

NS-7.08 The Rural Environment should restrict intensive development along undeveloped shoreline areas that might interfere with the normal operations or economic viability of an agricultural activity located on adjacent associated shoreline areas. The Rural Environment maintains open spaces and provides opportunities for recreational uses compatible with agricultural activities.

NS-7.09 The following criteria should be used for the designation of Rural Environments:

1. Intensive agricultural or recreational uses.
2. Those areas with potential for agricultural use.
3. Those undeveloped natural areas that lie between agricultural areas.
4. Low-density residential development.
5. Moderate land values.
6. Potential low demand for services.

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NS-7.10 Generally, allowed uses in the Rural environment should focus on resource and recreation uses. Commercial and industrial uses should be carefully limited. Residential uses should sustain shoreline functions.

Conservancy Environment Policies

NS-7.11 The Conservancy Environment classification should be used for areas where maintenance of the existing character of the area is desirable. This does not necessarily mean preservation, but rather a use of natural resources on a sustained yield basis. Thus, the harvesting of timber as well as recreational activities are to be the primary uses permitted. Also, areas that are isolated from services, have poor drainage, high flood danger, poor ground for septic tanks, unstable earth, or steep slopes should be designated Conservancy

NS-7.12 The following criteria should be used for the designation of Conservancy Environments:

1. Very low intensity land uses; primarily sustained-yield activities or pasture-range land.
2. Larger acreages.
3. Relatively low land values.
4. Relatively minor public or private capital investment.
5. Considerable biophysical limitations, making commercial, industrial, or medium to high-density residential development unsuitable.

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NS-7.13 Generally, commercial and industrial uses should not be allowed in the Conservancy Environment, except when they are water oriented. Resource uses should be of low enough intensity to sustain shoreline functions with preference for non-permanent structures. Low-density residential

development should sustain the character of the shoreline. Diffuse recreational uses are preferred use. Uses should avoid hazardous areas.

Natural Environment Policies

~~NS-7.14~~ The Natural Environment should protect those shoreline areas which are considered unique by virtue of their existence and valuable only to the extent that the natural integrity is preserved for the benefit of future, as well as, present generations. Prime targets for classification into the Natural Environment will be certain shorelands owned or controlled by the various Federal and Tribal wildlife management agencies with limited access and certain private lands which are seen to be proper for Natural classification, and the owner of which will be interested in the promise of very low taxation.

~~NS-7.15~~ The following criteria should be used for the designation of Natural Environments:

1. The presence of a natural, historical, cultural, scientific, or educational feature considered valuable by virtue of its existence in a natural or original state and thereby warranting preservation for the benefit of present and future generations.
2. Those areas generally intolerant of intensive human use.
3. Areas with severe biophysical limitations.
4. Natural areas with strong limits on access.

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~~NS-7.16~~ Generally, commercial, industrial, mining, non-water oriented recreation, roads, utilities, and parking areas should not be located in Natural Environment. Other uses, including residential, should be carefully limited in the Natural environment. Restrict activities that may degrade the actual or potential value of this environment, and severely restrict development in hazardous areas.

Floodway / Channel Migration Zone (CMZ) Environment Policies

~~NS-7.17~~ The Floodway/Channel Migration Zone environment should protect the water areas; islands, associated overflow channels, and channel migration areas. This environment acknowledges the river's need to move within parts of its floodplain, and emphasizes the preservation of the natural hydraulic, geologic and biological functions of the county's shorelines that are constrained by severe biophysical limitations.

~~NS-7.18~~ A Floodway/Channel Migration Zone designation should be assigned to shoreline areas that are within mapped Channel Migration Zones and/or within a designated FEMA Floodway. The extent of the Floodway/Channel Migration Zone should never extend beyond the 100-year flood plain.

~~NS-7.19~~ Generally, commercial, industrial, mining, non-water oriented recreation, roads, utilities, parking areas, and residences should not be located in the Floodway/Channel Migration Zone Environment. Other uses (recreation, resource uses, etc.) should be carefully limited to protect shoreline functions. Restrict activities that may degrade the actual or potential value of this environment, and severely restrict development in hazardous areas. Modifications that harden or fix stream banks and channels should be discouraged.

Urban Conservancy Environment Policies

~~NS-7.20~~ The Urban Conservancy environment should protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

~~NS-7.21~~ The following criteria should be used for the designation of Urban Conservancy Environments;

- 1) areas that lie in incorporated municipalities and urban growth areas;
- 2) areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area;
- 3) ~~—~~ areas that are suitable for water-enjoyment uses;
- 4) areas that are open space or floodplain, or that retain important ecological functions that should not be more intensively developed;

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~~NS-7.22~~ Generally, allowed uses should focus on recreational uses. Commercial, industrial and residential uses should be carefully limited, and when allowed should result in restoration of ecological functions. Uses that preserve the natural character of the area or promote the preservation of open space, floodplain or sensitive lands (either directly or over the long term) should be the primary allowed uses. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

GENERAL SHORELINE POLICIES

Critical Areas, Restoration, and Vegetation Conservation Policies

~~NS-7.23~~ New development or new uses, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

~~NS-7.24~~ Only allow new structural flood hazard reduction measures in shoreline jurisdiction when it can be demonstrated that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken.

~~NS-7.25~~ Protect all shorelines of the state so that there is no net loss of ecological functions from both individual permitted development and individual exempt development.

~~NS-7.26~~ In development of the Shoreline Master Program, evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions to ensure no net loss of ecological function. Develop a means to allocate the burden of addressing cumulative effects.

~~NS-7.27~~ Provide, where feasible and desirable, restoration of degraded areas along the shorelines of ~~Yakima County~~ The City of Toppenish.

~~NS-7.28~~ Critical areas within shoreline jurisdiction should be protected with the critical area policies and standards protecting all of the ~~County's-City's~~ critical areas, including those for CMZs and Flood Control.

~~NS-7.29~~ Protect shoreline streams, lakes, ponds, and wetlands with a vegetative buffer as described in the Critical Areas Ordinance.

~~NS-7.30~~ For existing agriculture encourage through a variety of voluntary means the maintenance of a permanent vegetative buffer between tilled areas and associated water bodies to reduce bank erosion, retard surface runoff, reduce siltation, improve_ water quality and provide habitat for fish and wildlife. For new agriculture, buffer requirements should be applied.

~~NS-7.31~~ Natural vegetation within shoreline jurisdiction should be retained to the greatest extent feasible. This should be accomplished by applying the stream corridor and wetland buffer requirements. Activities covered by the State Forest Practices Act should not be subject to vegetation conservation standards, but should be subject to buffer requirements when under ~~County-City~~ jurisdiction. Require developers to indicate how they plan to preserve shore vegetation and control erosion.

~~NS-7.32~~ Selective pruning of trees for safety and view protection, and the removal of noxious weeds should be allowed.

~~NS-7.33~~ Upon completion of construction/maintenance projects on shorelines, disturbed areas should at a minimum be restored to pre-project configuration wherever possible, replanted with native species and provided maintenance care until the newly planted vegetation is established.

Public Access Policies – Physical and Visual

~~NS-7.34~~ Protect navigation of waters of the state, the space needed for water-dependent uses, and views of the water through development standards.

~~NS-7.35~~ Transportation and parking plans within Shoreline jurisdiction shall include systems for public access, including pedestrian, bicycle, and public transportation where appropriate.

~~NS-7.36~~ The city limits of Toppenish at their closest point to the Yakima river are approximately 450 feet away from the water's edge. While the city will encourage visual and physical public access to the river to the extent possible under WAC 173-26-221(4) it has no direct jurisdictional control over the actual shoreline. The shoreline property that is proximate to the small amount of shoreline jurisdiction within the City limits of Toppenish is Yakama Nation Trust property and not subject to the SMA ~~To provide public access planning in conformance with WAC 173-26-221(4), Yakima~~

~~County uses the following approach to provide public access to Shoreline areas:~~

~~1) Yakima County has a very high proportion of federal, state and other publicly owned or conservancy owned lands in Shoreline areas. These publicly owned Shoreline areas constitute a large portion of the county's total shoreline area. Yakima County emphasizes the use of those public lands to provide public access.~~

~~2) Many of the above lands have improved sites and locations to promote physical access to shorelines.~~

~~Yakima County relies on these agencies to develop new public access facilities as they deem appropriate.~~
~~3) Many of the above lands are open to unimproved public access, as well.~~
~~4) Many Shoreline areas are also along transportation corridors which provide visual access to much of the County's shoreline areas.~~
~~5) Due to the nature of Yakima County's shorelines, commercial water oriented uses, existing and new, tend to be highly related to water enjoyment uses and recreation.~~
~~6) Due to the nature of Yakima County's shorelines, recreational uses, existing and new, tend to be highly oriented toward the water, thereby providing access to shoreline areas.~~
~~(7) Yakima County relies on the development of commercial water oriented uses and recreational uses to provide additional public access opportunities.~~
~~(8) Development standards for dedicated and improved public access to the shoreline and visual quality should be required for public developments, with few exceptions.~~
~~All projects should provide public access, except where it is demonstrated to be infeasible due to reasons of safety, security, and impact to the shoreline environment, or constitutional or legal limitations.~~

~~NS 7.37 — Promote and enhance diversified types of public access to shorelines in Yakima County which may accommodate intensified use without significantly impacting fragile natural areas intolerant of human use and without infringing on rights of private ownership.~~

~~NS 7.38 — Access to recreational areas should emphasize both areal and linear access (parking areas and trails or bicycle paths, for example) to prevent concentrations of use at a few points. Linkage of shoreline parks and public access points by means of linear access should be encouraged.~~

~~NS 7.379~~ Development standards should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences. Where aesthetic impacts are not avoidable, provide mitigation.

~~NS 7.40 — Where there exists a conflict between public access or a water dependent use, and the maintenance of an existing view from adjacent properties, the physical public access or water dependent use should have priority unless there is a compelling reason to the contrary.~~

~~NS 7.41 — Proper design, location, and construction of road and railroad facilities should be exercised to provide to the degree practical, scenic corridors, rest areas, view points, and other public oriented facilities in public shoreline areas.~~

NS 7.~~3842~~ Wherever feasible, utility facilities should be placed underground.

Signs and Billboards

~~NS 7.3943~~ Outdoor sign size, spacing and lighting should conform to the Scenic Vistas Act (RCW 47.42) and standards in the Zoning Ordinance.

Archaeological and Historic Resources

POLICIES

~~NS-7.404~~ Encourage the protection and restoration of areas and sites in ~~The City of Toppenish Yakima County~~ having historic, archaeological, cultural, educational or scientific value. Wherever possible, sites should be permanently preserved for scientific study and public observation.

~~NS-7.415~~ Development along shorelines should include consultation with professional archaeologists, historians, and biologists to identify areas containing potentially valuable data, and to establish procedures for salvaging the data or maintaining the area in an undisturbed condition.

~~NS-7.426~~ Shoreline permits should contain special provisions which require developers to immediately stop work and notify local governments, the Office of Archeological and Historic Preservation, and affected tribes, if any possible archaeological or historic resources are uncovered during excavations.

~~NS-7.437~~ Development which would destroy archaeological or historical sites or data may be delayed for a reasonable time to allow the appropriate agency or organization to purchase the site or to recover the data.

Water Quality, Stormwater and Pollution

POLICIES

~~NS-7.448~~ Shoreline water quality should be protected as follows:

1. Rely on a ~~County-City~~ stormwater program meeting state and federal stormwater control requirements where possible;
2. Use Critical Aquifer Recharge Area protection measures in the Critical Areas Ordinance;
3. Control drainage and surface runoff from all non-agricultural facilities requiring large quantities of fertilizers and pesticides (such as golf courses and play fields) to prevent contamination of water areas;
4. All developments shall comply with County Health regulations, when applicable;
5. Handle and dispose of pesticides in accordance with provisions of the Washington Pesticide Application Act (RCW 17.21) and the Washington Pesticide Act (RCW 14.47);
6. Proper design, location, and construction of all facilities should be exercised to prevent the entry of pollutants or waste materials into the water body.
7. When earthen materials are moved within shoreline areas, measures to adequately protect water quality should be provided.
8. Water quality protection measures should not impact recreation opportunities.

~~NS-7.459~~ Agricultural erosion control measures should conform to rules and standards established by the Conservation Districts of Yakima County.

~~NS-7.50~~ In planning for marina location and design, special water quality considerations should be given to:

1. Fuel handling and storage facilities to minimize accidental spillage;
2. Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;

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~~3. Adequate facilities to properly handle wastes from holding tanks.~~

~~NS-7.4651~~ Prohibit sanitary landfills along shoreline areas. Otherwise the disposal of all solid wastes should proceed in accordance with the Yakima County Solid Waste Management Plan.

SHORELINE USE POLICIES

General Use Policies

~~NS-7.4752~~ Establish a system of shoreline uses that:

1. Gives preference to uses with minimal impacts and that are ~~dependant~~dependent on the proximity to the water;
2. Protects the public's health, safety, and welfare; ecological functions; and property rights;
3. Establishes conditional uses to provide extra protection for the shoreline.

~~NS-7.4853~~ Assure that new shoreline development in ~~The City of Toppenish Yakima County~~ is consistent with a viable pattern of use suitable to the character and physical limitations of the land and water.

~~NS-7.4954~~ Encourage sound management of renewable and nonrenewable natural resources.

Recreation

~~NS-7.55~~ ~~Assure the preservation and expansion of diverse, convenient recreational opportunities along the public shorelines of Yakima County for public use, consistent with the capacity of the land to accommodate such activity. Accomplish this by ensuring that shoreline recreational development is given priority and is primarily related to access, enjoyment and use of the water and Shorelines of the State~~

~~NS-7.5056~~ Where the uses designated for a specific recreational area are planned to satisfy a diversity of demands, these uses must be compatible with each other and the environment of the area.

~~NS-7.57~~ ~~Where feasible and desirable, encourage the use of public lands for recreational facilities as a more economical alternative to new acquisitions by local agencies.~~

~~NS-7.518~~ Locate, design, construct and operate recreational facilities to prevent undue adverse impacts on natural resources of an area and on adjacent or nearby private properties.

Transportation and Parking

~~NS-7.529~~ Encourage a transportation network in ~~The City of Toppenish Yakima County~~ capable of delivering people, goods, and services, and resulting in minimal disruption of the shorelines' natural system.

~~NS-7.60~~ ~~When it is necessary to locate major highways, freeways and railways along stream drainages or lake shores, such facilities should be sufficiently set back so that a useable shoreline area remains. Care should also be taken to insure that a minimum land area is consumed.~~

~~NS-7.61~~ ~~To avoid wasteful use of the limited supply of shore land, locate access roads and parking areas~~

~~upland, away from the shoreline whenever such options are available. Access to the water should be provided by pathways or other methods. Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use.~~

~~NS 7.5362~~ Proper design, location, and construction of road and railroad facilities should be exercised to:

1. Minimize erosion and permit the natural movement of water;
2. Use existing topography to maximum advantage and preserve natural conditions to the greatest practical extent.

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~~NS 7.63—Extensive loops or spurs of old highways with high aesthetic quality or bicycle route potential should be kept in service as pleasure bypass routes.~~

Agriculture

~~NS 7.5464~~ Allow lawfully established agricultural activities occurring on agricultural lands to continue as they historically have. New agricultural activities on land not currently used for agriculture, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities (including any agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv)) should meet shoreline requirements.

~~NS 7.5565~~ Encourage animal feedlot operations to locate away from shorelines.

Aquaculture

~~NS 7.66—Consider aquaculture a preferred shoreline use when consistent with the control of pollution and prevention of damage to the environment.~~

~~NS 7.67—Ensure that aquacultural uses do not conflict with other water dependent uses or navigation, spread disease, establish non-native species that cause significant ecological impact, or significantly impact the aesthetic qualities of the shoreline. Protect spawning areas designated by the Department of Fish and Wildlife from conflicting uses.~~

Boating Facilities and Marinas

~~NS 7.68—Ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses. All marinas should be developed and operated in accordance with all state and local requirements.~~

~~NS 7.69—In planning for marina location and design, special consideration should be given to necessary facilities such as adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.~~

Forest Practices

~~NS 7.70 — Shoreline areas having well known scenic qualities (such as those providing a diversity of views, unique landscape contrasts, or landscape panoramas) should be maintained as scenic views in timber harvesting areas. Timber harvesting practices, including road construction and debris removal, should be closely regulated so that the quality of the view and viewpoints along shorelines of statewide significance in the region are not degraded.~~

~~NS 7.71 — Forest management shall proceed in accordance with regulations established by the Washington State Forest Practices Act, including coordination with Yakima County on forest practice conversions and other Class IV forest practices where there is a likelihood of conversion to non forest uses.~~

~~NS 7.72 — Ensure that timber harvesting on shorelines of statewide significance does not exceed the limitations established in RCW 90.058.150 (regarding selective harvest requirements), except as provided in cases where selective logging is rendered ecologically detrimental or is inadequate for preparation of land for other uses.~~

Mining

~~NS 7.5673~~ Remove sand, gravel, and minerals from only the least sensitive shoreline areas. Due to the risk of avulsion and mine pit capture by the river, mining within the stream channel and channel migration zone should not be allowed. In special cases where it is allowed, it should be a conditional use. Restoration or enhancement of ecological function is encouraged.

~~NS 7.5774~~ Require land reclamation plans of any mining venture proposed within a shoreline. Mining reclamation shall be done in conformance with the Washington State Surface Mining Act (RCW 78.44).

~~NS 7.5875~~ Ensure that mining and associated activities are designed and conducted consistent with the applicable environment designation and the applicable critical areas ordinance.

~~NS 7.5976~~ Ensure that proposed subsequent use of mined property and the reclamation of disturbed shoreline areas is consistent with the applicable environment designation and that appropriate ecological functions are provided consistent with the setting.

Residential Development

~~NS 7.6077~~ Design subdivisions at a density, level of site coverage, and occupancy compatible with the physical capabilities of the shoreline and water, and locate them to prevent the need for new shore stabilization or flood hazard reduction measures.

~~NS 7.6178~~ Restrict subdivisions in areas subject to flooding.

~~NS 7.6279~~ Encourage cluster development wherever feasible to maximize use of the shorelines by residents, maximize both on-site and off-site aesthetic appeal, and minimize disruption of the natural shorelines.

Commercial Development

~~NS-7.6380~~ Limit commercial development to those activities that are particularly dependent upon a shoreline location. Other commercial uses should be encouraged to locate upland. Give first preference to water-dependent commercial uses over non-water- dependent commercial uses; and give second preference to water-related and water- enjoyment commercial uses over non-water-oriented commercial uses. Allow non- water-oriented commercial uses in limited situations.

Utilities

~~NS-7.6481~~ New utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-oriented should not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. Expansion, updating, and maintenance of existing facilities is allowed but should be designed to minimize the impacts as much as possible.

~~NS-7.6582~~ Wherever possible, transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, should be located outside of the shoreline area. If location within the shoreline cannot be prevented, confine utilities in a single corridor or within an existing right-of-way.

~~NS-7.6683~~ Locate new sewage treatment, water reclamation, and power plants where they do not interfere with and are compatible with recreational, residential or other public uses of water and shore lands. New waste treatment ponds for industrial waste should be located upland when feasible.

Industry

~~NS-7.6784~~ Allocate sufficient quantities of suitable land for water related industry. Give preference to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water- oriented industrial uses. Allow non-water-oriented industrial development in limited situations.

~~NS-7.6885~~ Discourage industries which have proven to be environmentally hazardous from locating along the shorelines.

In-stream Structural Uses

~~NS 7.86 —The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.~~

~~NS 7.87 —All in-stream structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.~~

SHORELINE MODIFICATION POLICIES

General Shoreline Modification Policies

~~NS 7.6988~~ Allow shoreline modifications only where they are shown to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or they are necessary for mitigation or enhancement work.

NS 7.7089 Limit shoreline modifications to the minimum necessary to accomplish the objective, while still protecting ecological functions. Give preference to shoreline modifications that have a lesser impact on ecological functions.

Shore Stabilization

~~NS 7.90—New structural stabilization measures should only be allowed for the following instances, and then only when meeting specific criteria:~~

- ~~1. When necessary to protect an existing primary structures;~~
- ~~2. In support of new and existing development;~~
- ~~3. To protect projects for the restoration of ecological functions or hazardous substance remediation projects.~~

~~NS 7.91—Avoid flood protection and stabilization measures which result in or tend toward channelization of streams such as, hardening of stream banks, or fixing channel locations.~~

~~NS 7.92—All shore stabilization activities must be designed and constructed to accepted engineering standards.~~

Landfill

NS 7.7193 Allow normal and reasonable land grading and filling where necessary to develop a land area for a permitted use. There should be no substantial changes made in the natural drainage patterns and no reduction of flood water storage capacity that might endanger other areas. Allow fill within the ordinary high water mark only when necessary to support water dependent uses, public access, transportation facilities, mitigation, restoration, enhancement, and certain special situations listed in WAC 173-26-231(3)(c).

NS 7.7294 In evaluating fill projects, such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat should be examined.

NS 7.7395 Locate and design shoreline fills or cuts to avoid creating a hazard to adjacent life, property, and natural resources systems, and to provide all perimeters of fills with vegetation, retaining walls, or other mechanisms for erosion prevention.

Dredging

~~NS 7.96—Dredging should only be permitted for maintaining existing navigation uses, not for obtaining fill material or mining.~~

~~NS 7.97—Permit deposit of spoils in water areas only to improve habitat or when the alternative is more detrimental than depositing in water areas.~~

~~Piers and Docks~~

~~NS 7.98—Piers and docks should only be allowed for water dependent uses and public access, except that water enjoyment and water related uses may sometimes be included as part of a mixed use development. New piers and docks must have a specific need and must be the minimum size necessary. Encourage the cooperative use of shared docks.~~

CRITICAL AREAS GOALS AND POLICIES IN SUPPORT OF THE SHORELINE MASTER PROGRAM - ~~YAKIMA COUNTY~~ City of Toppenish COMPREHENSIVE PLAN ~~2015-2018~~ – Natural Settings Element

Below are the Goals and Policies for Critical Areas which are retained in support of the SMP consistent with Policy NS 7.28. These Goals and Policies also legally reside within ~~Yakima County's~~ the City of Toppenish Comprehensive Plan ~~2015-2018~~. ~~These Goals and Policies were updated in 2007 to be consistent with the GMA (WAC 365-190, 365-195) and the SMP Guidelines (WAC 173-26), which were adopted by the Yakima Board of County Commissioners by Ordinance 13-2007.~~

CRITICAL AREAS ~~PURPOSE STATEMENT 8~~

Critical Areas are an important part of the natural setting in ~~Yakima County~~ The City of Toppenish. Their protection is required by the Growth Management Act and important to the quality of life of the residents of ~~this the county~~ city. Critical Areas include groundwater, fish and wildlife habitat (which includes surface waters), wetlands, frequently flooded areas, and geologic hazards. The protection of critical areas must include certain general approaches, which are provided for in the goals and policies below.

Goal NS ~~18~~: Establish critical areas protection measures to protect environmentally sensitive areas, and protect people and property from hazards.

GENERAL POLICIES

~~NS 8.1~~ Policy 1.1 Use the best available science in a reasonable manner to develop regulations to protect the functions and values of critical areas ~~(WAC 365-195-900)~~.

~~NS 8.2~~ Policy 1.2 Ensure proposed subdivisions, other development, and associated infrastructure are designed at a density, level of site coverage, and occupancy to preserve the structure, values and functions of the natural environment or to safeguard the public from hazards to health and safety ~~WAC 365-195-825(2)(b))~~.

~~NS 8.3~~ Policy 1.3 Use a preference-based system of mitigation sequencing for the County's stream, lake, pond, wetland, floodplain, and fish and wildlife habitat critical areas that reduces impacts using approaches ranging from avoidance to replacement. See section 16+A.03.10 Mitigation requirements WAC 197-11-768

~~NS 8.4~~Policy 1.4 In order to encourage Critical Area protection and restoration, the density and lot size limits ~~-stipulated -in- other- policies- may -be -adjusted -or- exceeded -to -accomplish clustering and bonus provisions adopted under the CAO. The use of incentive-~~based programs is encouraged.

~~WATER QUALITY AND QUANTITY~~

Groundwater and Critical Aquifer Recharge Areas (CARAs)

~~PURPOSE STATEMENT NS 9~~

WATER QUALITY AND QUANTITY

Groundwater is the primary source of drinking water for most rural County residents. The City of Yakima is the only city within Yakima County that uses surface water as a primary source (Naches River). All other jurisdictions currently use groundwater (wells) as their primary source of water. Once groundwater is contaminated it is difficult, costly, and often impossible to clean up. Some contaminants like microbial organisms can cause sickness and discomfort while others like organic chemicals, inorganic metals, and radio-nuclides can cause neurological disorders, cancer, mutations and death.

Wells provide a potential source of contamination of both the shallow and deeper aquifers. The proliferation of individual domestic and irrigation wells increases the risk that contamination may find its way into the groundwater. Although the quality of groundwater resources used for drinking water in Yakima County is generally good, the potential for problems exists because many wells tap shallow aquifers (less than 100 feet) which are extremely susceptible to surface contamination. The following goal and policies address these concerns by encouraging the identification of aquifers and taking steps to reduce potential contamination.

GOAL ~~NS 9.2~~: Maintain and manage the quality of the groundwater resources in ~~Yakima County~~the City of Toppenish as near as possible to their natural conditions and in compliance with state water quality standards.

POLICIES:

~~NS 9.1~~Policy 2.1 Identify and ~~-map-~~ important aquifers, critical aquifer recharge areas, and surface waters.

~~NS 9.2~~Policy 2.2 Develop performance standards and regulate uses for activities ~~-which-~~ adversely impact water- quantity and- quality in- aquifers, wetlands, watersheds- and- surface waters.

~~NS 9.3~~Policy 2.3 Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

~~NS 9.4~~Policy 2.4 Continue data collection and evaluation efforts to better understand the ~~County's~~City's groundwater system and its vulnerability to contamination.

~~NS 9.5~~Policy 2.5 Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

~~NS 9.6~~Policy 2.6 Conduct and support educational efforts which inform ~~County~~ citizens of measures they can take to reduce contaminant loading of groundwater systems.

~~NS 9.7~~Policy 2.7 Encourage development and expansion of community public water systems within the Urban Growth Area to lessen the reliance on individual wells.

~~NS 9.8~~Policy 2.8 Ensure that abandoned wells are closed properly.

~~NS 9.9~~Policy 2.9 Ensure sufficient water quantity exists to support land use activities.

SURFACE WATER

~~PURPOSE STATEMENT NS 10, 11 & 12~~

The Yakima River and its many tributaries are perhaps the most dynamic and used natural features in Yakima County. Throughout its 200-mile course, water from the Yakima is withdrawn to feed agricultural operations that drive our economy. Irrigation and other water uses developed both inside and outside the Yakima Irrigation Project, developed under the 1903 Reclamation Act, are relatively unique in that all of the water for irrigation is generated, stored and distributed in the Valley. The tributaries, the Naches River and the Yakima River are used as the conduit for the water distributions system in the Valley. The Yakima River is used as the trunk of the water distributions system, is the most important component of the Yakima Project, and probably is the most important piece of infrastructure in the Valley. Agriculture, industry, recreation and the Cities within the basin are dependent on this distribution system for water supply for domestic, industrial, agricultural and residential uses. The demands of this economy are continuing to increase, while existing operations return flows of a far lesser quality. The combined historic actions of over-~~withdrawal~~, pollution and vegetation removal have produced a waterway that exits Yakima County completely altered from the condition in which it begins near Snoqualmie Pass. To deal with the situation, efforts by many parties have been made to improve stream corridors within the County, especially in the areas of water quality and habitat. The following goals and policies address actions and attitudes that should guide decisions related to surface water.

~~GOAL NS 10~~Goal 3: Enhance the quantity and quality of surface water.

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POLICIES:

~~NS 10.1~~Policy 3.1 Improve water conservation through education and incentives.

~~NS 10.2~~Policy 3.2 Protect water quality from the adverse impacts associated with erosion and sedimentation.

~~NS 10.3~~Policy 3.3 Encourage the use of drainage, erosion and sediment control practices for all construction or development activities.

~~GOAL NS 11~~Policy 3.4: Identify future needs and promote increased water supplies through

coordinated development and conservation efforts.

POLICY:

NS 11.4 Policy 3.5: Support local and regional cooperative efforts which help to accomplish this goal.

GOAL NS 12 Goal 4: Restore, maintain, or enhance the quality of the Yakima River Basin's surface water.

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POLICIES:

12.1 Policy 4.1: Maintain local control over water quality planning by: 1) providing guidance to state and federal agencies regarding water quality issues, priorities and needs; and 2) demonstrating progress in accomplishing the goals and objectives of locally developed water quality plans, thereby pre-empting externally-imposed solutions to water quality problems as much as possible.

NS 12.2 Policy 4.2: Make use of local and regional data sources to assess water quality progress.

NS 12.3 Policy 4.3: Participate in water quality improvement planning and implementation efforts by local, regional, state, federal, and tribal agencies, as well as coalitions such as local watershed planning efforts.

FLOOD HAZARDS AND STORMWATER

PURPOSE STATEMENT NS 13 and 14

While stormwater management may be of less concern in Yakima County than in areas that receive more precipitation, localized flooding does occur in certain areas, such as Wide Hollow Creek, Ahtanum Creek, and Cowlitz Creek. If the amount of impervious area in a watershed increases, and provisions are not made for retaining stormwater on-site, up-watershed areas can contribute to the flooding hazards of their down-stream neighbors, and flooding becomes more frequent and more severe. If the natural drainage courses are obstructed with fill material, buildings, or roads that lack adequately-sized culverts, storm water can cause localized flooding, with property damage and disruption of services.

~~Yakima County~~ The City of Toppenish is subject to state and federal water quality and Underground Injection Control (UIC) regulations. Some Urban Areas within ~~Yakima County~~ the City of Toppenish are also subject to state and federal stormwater regulations.

GOAL NS 13 Goal 5: Prevent increased flooding from stormwater runoff.

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POLICIES:

NS 13.1 Policy 5.1: Require on-site retention of stormwater.

NS 13.2 Policy 5.2: Preserve natural drainage courses.

NS 13.3 Policy 5.3: Minimize adverse storm water impacts generated by the removal of vegetation and alteration of land forms.

GOAL NS 14 Goal 6: Improve water quality through improved stormwater management.

POLICIES:

~~NS-14.1~~Policy 6.1 Review the recommendations of locally adopted stormwater management plans, and develop a realistic implementation schedule.

~~NS-14.2~~Policy 6.2 Control stormwater in a manner that has positive or neutral impacts on the quality of both surface and groundwater, and does not sacrifice one for the other.

FISH AND WILDLIFE HABITAT, WETLANDS, AND FREQUENTLY FLOODED AREAS

PURPOSE STATEMENT NS 15, 16, 17 and 18

~~The area surrounding Toppenish Yakima County~~ contains some of the most diverse and unique fish and wildlife habitat found anywhere in the country. These environments provide places where animals can find food, water, shelter, and security, and act as gene pools to assure continued genetic diversity. The following goal and supporting policies encourage the protection of fish and wildlife habitat in order to protect the environment for multiple uses. While fish and wildlife habitat includes upland habitat, state administrative code (WAC 365-190-080(5)) focuses on habitat that is related to water. ~~The Shoreline Management Act at RCW 90.58.020 contemplates protecting against adverse impacts to "...the land its vegetation and wildlife, and the waters of the state and their aquatic life". Thus the standard for protecting existing ecological function, expressed in fish and wildlife and their habitats, is more comprehensive than the Growth Management Act.~~

Stream corridors, lakes, ponds, wetlands, flood plains and other areas subject to flooding perform important hydrologic functions including storing and slowly releasing flood waters, reducing floodwater velocities, settling and filtering of sediment and nutrients, shading surface waters, and other functions. These areas also provide natural areas for wildlife and fisheries habitat, recreation areas and rich agricultural lands. Development in these areas diminishes their functions and values and can present a risk to persons and property on the development site and/or downstream from the development. Building in frequently flooded areas also results in high costs for installing flood protection measures to protect life and property and to repair flood damages.

Wetlands are an economically, biologically, and physically valuable resource. They are the most biologically productive ecosystems in nature, even though they constitute only a small percentage of the total landscape. They provide important nursery and spawning areas, which in turn support a strong commercial and recreational industry. Wetlands also play an important function in local and regional hydrologic cycles.

The following goals and policies work toward preserving, protecting, and managing fish and wildlife habitat and wetlands by adopting, boundaries, and a data system to track them, and establishing development regulations for their protection. These goals and policies also seek to reduce the hazards and impacts of development through comprehensive flood control planning, directing facility development away from these areas, and developing site development standards.

FISH AND WILDLIFE HABITAT

~~GOAL-NS-15~~Goal 7: Provide for the maintenance and protection of habitat areas for fish and wildlife.

POLICIES:

~~NS 15.4~~Policy 7.1 Encourage the protection of ~~aquatic, riparian, upland and wetland~~ fish and wildlife habitat ~~from a region-wide perspective. This can be approached from both a region-wide and site-specific perspective~~ to ensure that the best representation and distribution of habitats remains to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;
3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;
5. Locally or regionally unique and rare habitats; and
6. Winter range and migratory bird habitat of seasonal importance.

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~~NS 15.2~~Policy 7.2 Direct development away from areas containing significant fish and wildlife habitat areas, especially areas which are currently undeveloped or are primarily dominated by low intensity types of land uses such as forestry.

~~NS 15.3~~Policy 7.3 Encourage the retention of sustainable natural resource based industries such as forestry and agriculture in order to protect important fish and wildlife habitat.

~~NS 15.4~~Policy 7.4 Coordinate fish and wildlife protection efforts with state and federal agencies and the Yakama Nation to:

1. Avoid duplication of effort;
2. Ensure consistency in protecting fish and wildlife habitat which crosses political boundaries;
3. Facilitate information exchanges concerning development proposals which may impact fish and wildlife habitat; and
4. Take advantage of any available financial, technical, and project review assistance.

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~~NS 15.5—Policy 7.5 Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations within City of Toppenish. Protect fish and wildlife habitat for all native species in Yakima County, so as to maintain current populations over time.—Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations within Yakima County.~~

~~NS 15.6~~Policy 7.6 Work with the resource agencies to prioritize habitats and provide appropriate measures to protect them according to their relative values.

~~**GOAL NS 16**~~**Goal 8: Conserve, protect and enhance the functions and values of stream corridors to provide for natural functions and protect hydrologic connections between features. (WAC 17326-221(2)(C)(iv)(b))**

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POLICIES:

~~NS 16.4~~Policy 8.1 Development projects should not be authorized if they obstruct fish passage or result in YVCOG Jurisdictional SMP

the unmitigated loss or damage of fish and wildlife resources.

~~NS-16.2~~Policy 8.2 Encourage and support the retention of natural open spaces or land uses which maintain hydrologic functions and are at low risk to property damage from floodwaters within frequently flooded areas.

~~NS-16.3~~Policy 8.3 Protect public and private properties by limiting development within hazardous areas of the stream corridor.

~~NS-16.4~~Policy 8.4 Give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries. (RCW 36.70A.172, WAC 365-195-925)

~~NS-16.5~~Policy 8.5 Establish a system of vegetative buffers landward from the ordinary high water mark of streams, lakes and ponds and the edge of wetlands.

FREQUENTLY FLOODED AREAS

~~GOAL NS-17~~Goal 9: Prevent the loss of life or property and minimize public and private costs associated with repairing or preventing flood damages from development in frequently flooded areas.

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POLICIES:

~~NS-17.1~~Policy 9.1 Support comprehensive flood control planning.

~~NS-17.2~~ ~~Yakima County~~Policy 9.2 City of Toppenish should conduct additional analysis and mapping of frequently flooded areas in cases where the 100-year floodplain maps prepared by the Federal Emergency Management Agency do not adequately reflect the levels of risk or the geographic extent of flooding.

~~NS-17.3~~Goal 9.3 Direct new critical facility development away from areas subject to catastrophic, life-threatening flood hazards where the hazards cannot be mitigated.

~~NS-17.4~~Goal 9.4 Where the effects of flood hazards can be mitigated require appropriate standards for subdivisions, parcel reconfigurations, site developments and for the design of structures. {Amended 12/98}

~~NS-17.5~~Policy 9.5 Plan for and facilitate returning Shoreline rivers to more natural hydrological conditions, and recognize that seasonal flooding is an essential natural process. (WAC 173-26-221(3)(b)(v))

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~~NS-17.6~~Policy 9.6 When evaluating alternate flood control measures on Shoreline rivers:

- 1) consider the removal or relocation of structures in the FEMA 100-year floodplain;
- 2) where feasible, give preference to nonstructural flood hazard reduction measures over structural measures;
- 3) structural flood hazard reductions measures should be consistent with the County's comprehensive flood hazard management plan.

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WETLANDS

~~GOAL NS-18~~Goal 10: Provide for long-term protection and no net loss of wetland functions and values.

~~POLICIES:~~

~~NS-18.1~~Policy 10.1 Preserve, protect, manage, and regulate wetlands for purposes of promoting public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources of ~~City of Toppenish~~Yakima County;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the ~~County~~City;
3. Protecting private property rights consistent with the public interest; and
4. Require wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

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~~NS-18.2~~Policy 10.2 Adopt a clear definition of a regulated wetland and a method for delineating regulatory wetland boundaries.

~~NS-18.3~~Policy 10.3 Classify regulated wetland areas to reflect their relative function, value and uniqueness.

~~NS-18.4~~Policy 10.4 Develop a wetlands database.

~~NS-18.5~~Policy 10.5 Manage and mitigate human activities or actions which would have probable adverse impacts on the existing conditions of regulated wetlands or their buffers.

~~NS-18.6~~10.6 Require mitigation for any regulated activity which alters regulated wetlands and their buffers. Develop ratios, performance standards, monitoring, and long-term protection. (WAC 173-26-221(2)(c)(i)(F), Existing CAO principle)

GEOLOGIC HAZARDS

PURPOSE STATEMENT NS 19

Geologic hazards pose a threat to the health and safety of ~~County~~City of Toppenish citizens when incompatible commercial, residential, or industrial development and associated infrastructure is sited in areas of significant hazard. The following goal and policies address the risk associated with these areas by encouraging engineering designs or modified construction practices that will mitigate problems, and prohibiting building where problems cannot be mitigated.

~~**GOAL NS-19**~~**Goal 11: Protect the public from personal injury, loss of life or property damage from geologic hazards.**

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~~POLICIES:~~

~~NS-19.1~~Policy 11.1 Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which endanger lives, property, or resources.

~~NS-19.2~~Policy 11.2 Locate development within the most environmentally suitable and naturally stable

portions of the site.

NS-19.3 Policy 11.3 Classify and designate areas on which development should be prohibited, conditioned, or otherwise controlled because of danger from geological hazards.

NS-19.4 Policy 11.4 Prevent the subdividing of known or suspected landslide hazard areas, side slopes of stream ravines, or slopes 40 percent or greater for development purposes.

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Chapter ~~16D.02~~4

GENERAL PROVISIONS

Sections:

16D.0102 .01	Title and Authority
16D.0102 .02	Language Interpretation
16D.0102 .03	Purpose of Title
16D.0102 .04	Intent of Title
16D.0102 .05	Applicability
16D.0102 .06	Science and Protection of Anadromous Fish
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16D.0102 .08	Administrative Authority
16D.0102 .09	Severability

~~16D.0102~~.01 Title and Authority

~~1) Yakima County Code (YCC) Title 16D is established pursuant to RCW 36.70A.060 (Growth Management Act Natural resource lands and critical areas—Development regulations), RCW Chapter 90.58 (Shoreline Management Act), RCW Chapter 43.21C (State Environmental Policy Act), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR). This title shall be known as the "Shoreline Master Program of Yakima County, Washington."~~

~~2)-~~

~~The Shoreline Master Program of the City of Toppenish Yakima County shall, for the purposes of RCW~~

~~36.70A.480 (GMA, Shorelines of the State) be considered a supplement to the Comprehensive Plan of the City of Toppenish Yakima County. The Shoreline Master Program Regulations shall, for the purposes of 36.70A.480 (GMA and Shorelines of the State) be considered a set of use regulations applying only to shoreline areas as specified in RCW 90.58 (SMA) and WAC 173-26 (SMP Guidelines). These regulations are intended to be substantive legal rules and procedures used to implement the goals and policies of the Master Program. These regulations shall be applied and interpreted in a manner consistent with the remainder of the Master Program or the Act.~~

~~16D.0102~~.02 Language Interpretation

Unless specifically defined in ~~Chapter 16D.02~~, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

~~16D.0102~~.03 Purpose of Title

The purpose of ~~YCC Title 16D the Shoreline Master Program~~ is to establish a single, uniform system of YVCOG Jurisdictional SMP

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procedures and standards to be applied to development within Shoreline jurisdiction of ~~unincorporated Yakima County and municipalities in Yakima County~~ the City of TOPPENISH which have adopted this regional SMP.

~~16D.0102.04~~ 04 Intent of Title

1) ~~The Shoreline Master Program~~ YCC Title 16D establishes goals, policies, standards, and regulations pertaining to projects, uses and development within Shoreline jurisdiction; ~~Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by a the City of TOPPENISH pursuant to RCW 36.70A.060(2) development within critical areas or other areas under Shoreline jurisdiction as provided in the Shoreline Management Act (RCW 90.58) and the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program. Additional purpose and intent for the protection of critical areas is provided in the chapter on each subject. Stream corridors, flood hazard areas, wetlands, critical aquifer-recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute Yakima County's critical areas. These areas are of special concern to the people of Yakima County and the state of Washington because they are environmentally sensitive lands, or hazardous areas, which comprise an important part of the county's natural resource base.~~ The policies, standards and procedures of this title are intended to:

- a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions; and
- b) Prevent further degradation of critical areas; and
- c) Conserve, protect and, where feasible, restore essential or important natural resources; and
- d) Protect the public health, safety, and general welfare; and
- e) Further the goals and objectives of the ~~Yakima County~~ City of TOPPENISH Comprehensive Plan and all of its elements; and
- f) Implement the goals and requirements of ~~the Washington Growth- Management Act (RCW Chapter 36.70A) as it applies to Shoreline jurisdiction, the Shoreline Management Act (RCW Chapter 90.58), and the National Flood Insurance Program;~~ and
- g) Recognize and protect private property rights; and
- h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Variance, Reasonable Use provisions and Non-Conforming Use and Facility provisions; and
- i) Manage for no net loss of ecological function within Shoreline jurisdiction to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life; and
- j) Establish a consistent foundation of regulations that apply to similar issues whether they are inside or outside Shoreline jurisdiction. ~~Additional protection measures required as a result of~~ because of Shoreline Master Program updates to this title are identified as applying within Shoreline jurisdiction and are not intended to be applied outside Shoreline

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jurisdiction; and

k) Recognize that mining is a unique use ~~as a result of~~because of its inherent linkage to geology.

Therefore, mining and related activities may be an appropriate use when conducted consistent with the policies and provisions of WAC 173-26-241(h), within all Shoreline Designations, except the Natural and Floodway/CMZ Environments.

2) In addition, the policies, standards, and procedures of this title:

a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance (~~YCC Title 16C~~ City CAO) or Shoreline Master Program (~~YCC Title 16D~~);

b) Are not intended to result in an unconstitutional taking of private property;

c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance (~~YCC Title 16C~~) or Shoreline Master Program (~~YCC Title 16D~~); but rather to use compensatory mitigation as a tool to mitigate impacts of new development;

d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible;

e) Are not intended to prohibit the use of valid water rights.

~~16D.01.02~~.05 Applicability

1) 4) The provisions of this title shall apply to any new development, construction or use within the ~~unincorporated portion of Yakima County City of TOPPENISH and municipalities in Yakima County which have adopted this regional SMP designated as a critical area inside~~ Shoreline jurisdiction, designated as- Shoreline jurisdiction, ~~and designated as a special flood hazard area under the National Flood Insurance Program. Those shorelines within the City of TOPPENISH and its Urban Growth Area which have been inventoried and found to meet the criteria as a shoreline of the state are as follows;~~

~~a. The Yakima River however, this title does not apply to the situations below, except that the Flood Hazard protection provisions of Chapter 5 will continue to apply as determined by the applicability provision in 16D.05.20:~~

~~a) Within critical areas and shorelines designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be subsequently prohibited, regulated or restricted under this ordinance. It is the intent of this title to permit these pre-existing legal non-conformities to continue without requirement to change said non-conformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below:~~

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- i) ~~Shoreline Master Program adopted September 5, 1974;~~
 - ii) ~~Shoreline Master Program amended March 26, 1981;~~
 - iii) ~~Shoreline Master Program amended November 1, 1981;~~
 - iv) ~~Critical Areas Ordinance adopted July 12, 1994;~~
 - v) ~~Critical Areas Ordinance amended October 1, 1995;~~
 - vi) ~~Flood Hazard Ordinance adopted June 5, 1985.~~
- b) ~~Critical areas on federally owned lands that are outside shoreline jurisdiction are not subject to this title;~~
- c) ~~Critical areas on federally owned lands within Shoreline jurisdiction in situations that do not have to obtain permits or follow the permit system, as provided in 16D.01.07 (Applicability to Federal Agencies), are not subject to this title;~~
- d) ~~Forest practices, as defined by this title, carried out under a Washington Department of Natural Resources Forest Practice permit are not subject to this title, except those that involve Shoreline jurisdiction, involve a conversion of forest land to a non-forestry use, involve a conversion option harvest plan, or take place on lands platted after January 1, 1960;~~
- e) ~~Livestock grazing on publicly owned land, when carried out under an agreement that includes a resource management plan that will be monitored by a public entity is not subject to this title;~~
- f) ~~Changing agricultural crops within an existing farming operation is not considered new development, construction or use, provided that the existing area under agricultural production is not extended further into a vegetative buffer identified under 16D.06.16, and provided that the natural contour of the land subject to this title is not altered by excavation and filling;~~
- g) ~~Minor, temporary or transient activities, including those of a recreational nature, that do not alter the environment or require a dedicated staging area, use area, or route are not subject to this title, and including temporary signs (election, sale, rent, etc.);~~
- h) ~~Critical Areas within the exterior boundaries of the Yakama Nation that are located within the designated Closed Areas or not under County jurisdiction as a result of the Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title.~~
- i) ~~Mining, as defined by this title, that is carried out under a Washington Department of Natural Resources reclamation permit is not subject to the geologically hazardous areas provisions of this title for erosion hazard areas, oversteepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.~~

2) 2) ~~Other rules and regulations, including the Yakima County City of TOPPENISH Subdivision Ordinance (YCC Title 14), the Yakima County the City of TOPPENISH Zoning Ordinance (YCC Title 15), the Yakima Urban Area Zoning Ordinance (YCC Title 15A), and the City of TOPPENISH Building and Construction Ordinance (YCC Title 13), shall remain in full force and effect as they apply to a designated critical area or Shoreline. Wherever the requirements of YCC the City of TOPPENISH Title 16D NEW SMP CITATION HERE conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted County City rules or regulations, the most restrictive standards shall govern.~~

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~~16D.01.06~~ Science and Protection of Anadromous Fish

~~This title has been updated consistent with the requirements for:~~

- ~~1) Using the best available science as required by RCW 36.70A.172 (Critical areas— Designation and protection— Best available science to be used) and WAC 365-195-900 through WAC 365-195-920 (BAS Background and purpose);~~
- ~~2) An integrated use of the natural and social sciences, and the environmental design arts, and utilization of all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data, as required by RCW 90.58.100 (Programs as constituting use regulations);~~
- ~~3) Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat, (salmon, steelhead, etc.) as required by RCW 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for demonstrating "special consideration" has been given to anadromous fisheries);~~

~~16D.01.02.067~~ Applicability of Permit System to Federal Agencies

The permit system shall be applied in the following manner to federal agencies on lands within Shoreline jurisdiction:

- 1) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of this title or chapter 90.58 RCW.
Federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government, or on easements obtained by the federal government for a specified purpose where the proposed development is consistent with the specified purpose, unless under either circumstance the federal government grants or reserves to the state or City of TOPPENISH Yakima County, substantial jurisdiction over activities on those lands.;
- 2) The permit system shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of a federal ownership.;
- 3) The permit system shall apply to developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government.;
- 4) The above paragraphs shall be controlling for the purposes of Shoreline permits for federal land or federal projects; however, the following attempts to clarify these limits for practical use:
 - a) Federal development on federally owned land is not required to obtain a permit.;
 - b) Federal development on a federally owned lease is not required to obtain a permit, as long as the development is consistent with the purpose of the lease.;

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- c) Development on federally owned land under a non-federal lease or easement must obtain a Shoreline permit.
- d) Non-federal development or use on federally owned land must obtain a Shoreline permit.
- e) Development on non-federal land must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership.

~~16D.0102.078~~ Administrative Authority

- 1) The ~~City of Toppenish Public Works~~~~Yakima County Public Services~~ Department ~~Planning Division and the appropriate authorities of municipalities which have adopted this regional SMP~~ shall be responsible for the general administration of this title. The ~~Planning~~~~Public Works Division Manager~~~~Director~~ or the ~~Manager's~~~~Director's~~ designee shall serve as the Administrative Official of this title ~~, except as noted in Chapters 16D.05.20 through 16D.05.72.~~
—The Administrative Official shall establish procedures for implementation of this title.
 - a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. Such interpretation shall specify whether ~~the issue is under Shoreline jurisdiction or not.~~ ~~A separate record of all~~ interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.
 - b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be ~~processed-administered~~ in accordance with ~~YCC Title 16B.03.070.03.09 of this Title.~~
(c) The City shall consult with the Department of Ecology (Ecology) to ensure that any formal written interpretations are consistent with the purpose and intent of the SMA (RCW 90.58), pursuant to WAC 173-26-140.

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~~16D.024.089~~ Severability

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

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.02.09 Effective Date

The effective of this Shoreline Master Program, and any future amendments therein, is 14 days from Ecology's written notice of final action.

Chapter ~~16D.032~~

DEFINITIONS

~~16D.02.003.0011~~ Definitions Generally

~~1a)~~ Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of ~~YCC Title 13 the City of TOPPENISH building code~~ and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

~~b) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard Areas, whether they occur inside or outside Shoreline jurisdiction, unless the definition itself identifies the term as applying to Shoreline or Flood Hazard administration, in which case the definition only applies to that situation.~~

~~16D.032.005~~ Abutting

"Abutting" means ~~bordering upon, to touch upon, or in physical contact with.~~ Sites are considered abutting even though the area of contact may be only a point.

~~16D.032.010~~ Adjacent

"Adjacent" means to be nearby and not necessarily abutting.

~~16D.02.012~~ Administrative Official

"Administrative Official" means the duly appointed ~~Planning Division~~ Director of the ~~Public Services~~ ~~Planning/Public Works~~ Department, or his designee, or the relevant decision maker identified in ~~YCC Title 16B~~ CITATION HERE (Project Permit Administration); synonymous with "administrator" or "director."

~~16D.02.03.015~~ Agricultural Activities

For purposes of administering the Shoreline Master Program "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Agricultural activities include plowing, discing, harrowing, compacting, planting, and harvesting, spraying, etc.;

- 1) "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals

themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products;

- 2) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:
- i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; and/or
 - ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; and/or
 - iii) farm residences and associated equipment, lands, and facilities; and or
 - iv) roadside stands and on-farm markets for marketing fruit or vegetables; ~~and~~

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3) "Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program as evidenced by aerial photography or other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program.

~~16D-02.03.025~~ Alluvial fan

"Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

~~16D-02.03.030~~ Applicant

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

~~16D-02.03.033~~ Aquaculture

For purposes of administering the Shoreline Master Program "Aquaculture" means the culture and/or farming of food fish, shellfish, and other aquatic plants and animals in fresh water. Aquaculture practices may include but are not limited to hatching, seeding or planting, cultivating, feeding, raising, harvesting of planted crops or of natural crops so as to maintain an optimum yield, and processing of aquatic plants or animals.

~~16D-02.03.035~~ Aquifer

"Aquifer" means a saturated geologic formation which will yield ~~a sufficient quantity of~~ enough water to serve as a private or public water supply.

~~16D-02.03.040~~ Critical Aquifer Recharge Area

"Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of

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the water.

~~16D-02.03.042~~ Bank

"Bank" means the land surface above the ordinary high-~~water~~ mark that abuts a body of water and contains it to the bankfull depth.

~~16D-02.03.043~~ Bankfull depth

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

~~16D-02.044~~ —Base Flood

~~"Base Flood" for purposes of administering 16D.05 means the flood having a 1 percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2)~~

~~16D-02.045~~ —Base Flood Elevation

~~"Base flood elevation" for purposes of administering 16D.05 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC 1612.2)~~

~~16D-02.046~~ —Basement

~~"Basement" for purposes of administering 16D.05 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2)~~

~~16D-02.03.055~~ Bed

"Bed" means the land below the ordinary high-~~water~~ lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

~~16D-02.03.060~~ Bedrock

"Bedrock" means in-place solid rock.

~~16D-02.03.065~~ Berm

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

~~16D-02.03.067~~ Best Management Practices

"Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination prevent or reduce adverse impacts to the environment.

~~16D-02.03.070~~ Bioengineering

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a

complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to aquatic and terrestrial wildlife. Bioengineered or biotechnical bank protection designs may incorporate limited use of armored toes and wood structural elements.

~~16D-02.03.075~~ Breakwater

"Breakwater" means a fixed or floating off-shore structure that protects the shore from wave action or currents.

~~16D-02.03.080~~ Bulkhead

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

~~16D-02.03.082~~ Cabin

For purposes of administering the Shoreline Master Program "Cabin" means a small single-family residence of 800 square feet or less, without a garage or carport and without large accessory buildings. Small accessory buildings, such as detached storage sheds or accessory structures totaling 120- square feet or- less, -may be allowed. Dwellings not meeting these standards are considered standard single-family residences.

~~16D-02.03.085~~ Channel

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

~~16D-02.03.090~~ Channel Migration Zone

For purposes of administering the Shoreline Master program "Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

~~16D-02.03.092~~ Chief Building Official

"Chief Building Official" or "building official" means the manager of the Building and Fire Safety Division of the Department of ~~Public Services-Planning~~ or designee.

~~16D-02.03.095~~ Classification

"Classification" means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

~~16D-02.03.100~~ Clearing

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

~~16D-02.03.110~~ Compaction

"Compaction" means compressing soil through some mechanical means to make it denser.

~~16D-02.03.115~~ Confinement Feeding Operation

"Confinement feeding operation" means the use of structures or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms, but does not include animal husbandry and normal farming practices.

16D-02.03.120 Construction

"Construction" means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

16D-02.03.125 Designated

"Designated" means formal legislative action to identify and describe a critical area.

16D-02.03.130 Department

"Department" means the ~~Yakima County Public Services~~ City of TOPPENISH Planning/Public Works Department, ~~Planning Division~~.

16D-02.03.135 Development

"Development" means any use as defined under RCW 90.58.030(3)(d) (definitions), or the division of land into lots or parcels in accordance with the ~~county~~ City of TOPPENISH Subdivision Ordinance (~~YCC Title 14~~ CITATION HERE), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. ~~For the purpose of Chapters 16D.05.20 through 16D.05.72, "development" also means any manmade change to improved or unimproved real estate located within the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter. "Development" does not include dismantling or removing structures if there is no other associated development or re-development. (Ref. IBC G 201.2)~~

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16D-02.03.140 Dike

"Dike" means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

16D-02.03.145 Dock

"Dock" means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

16D-02.03.150 Dredging

"Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

16D-02.03.160 Earth Material

"Earth material" means any rock, natural soil, or combination thereof.

~~16D-02.03.163~~ Ecological functions

For purposes of administering the Shoreline Master Program "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

~~16D-02.03.166~~ Ecosystem-wide processes

For purposes of administering the Shoreline Master Program "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

~~16D-02.03.170~~ Enhance

"Enhance" means to strengthen any of the basic functional properties of a riparian area listed in Section-16D-06-05 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

~~16D-02.03.175~~ Ephemeral Stream

"Ephemeral stream" means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

~~16D-02.03.180~~ Erosion

"Erosion" means the wearing away of the earth's surface ~~as a result of~~because of the movement of wind, water, or ice.

~~16D-02.03.185~~ Events and Temporary Uses

For purposes of administering the Shoreline Master Program "Events and Temporary Uses" means a social or community occasion or activity lasting for a limited time. Events and Temporary Uses within permitted facilities or legally non-conforming facilities that are designed for such uses are not included in this definition, as long as they do not materially interfere with the normal public use of the water or shorelines of the state.

~~16D-02.03.190~~ Excavation

"Excavation" means the mechanical removal of earth material.

~~16D-02.03.195~~ Feasible

For purposes of administering the Shoreline Master Program "Feasible" means that an action, such ~~-as-~~ ~~a~~ ~~development-~~ ~~project-~~ ~~mitigation-~~ ~~or-~~ ~~preservation~~ ~~-requirement,~~ ~~-meets-~~ ~~all-~~ ~~of-~~ the following conditions:

- a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- b) The action provides a reasonable likelihood of achieving its intended purpose; and

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c) The action does not physically preclude achieving the project's primary intended legal use.

~~16D-02.03.200~~ Fill

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

~~16D-02.03.205~~ Flood

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

~~16D-02.03.206~~ Flood Hazard Permit

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

~~16D-02.03.207~~ Flood Insurance Rate Map

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

~~16D-02.03.208~~ Flood Insurance Study

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

~~16D-02.03.210~~ Floodplain

"Floodplain" means a land area adjoining a river, stream, watercourse, or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered.

"Flood plain" is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

~~16D-02.03.215~~ Flood-prone

"Flood-prone" means a land area for which a floodway and floodplain has not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

~~16D-02.03.216~~ Flood-proofing

"Flood-proofing" ~~for purposes of administering 16D-05~~ means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures, and contents of buildings.

~~16D-02.03.220~~ Floodway

"Floodway" means ~~"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state. the regular channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

~~16D.02.225 — Floodway Fringe~~

~~"Floodway fringe" for purposes of administering 16D.05 means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.~~

~~16D.02.03.230 Forest Land~~

"Forest land" means land primarily devoted to forest practices activities.

~~16D.02.03.240 Forest Practices~~

"Forest practices" means activities conducted under federal forest practices approval or under a Forest Practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land , including growing, managing, harvesting, and interim storage of merchantable timber for commercial value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.

~~16D.02.03.250 Grade~~

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

~~16D.02.03.255 Grading~~

"Grading" means any excavation, filling, or combination thereof.

~~16D.02.03.260 Groundwater~~

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

~~16D.02.263 — Hydrologically Related Critical Areas (HRCA)~~

~~"Hydrologically Related Critical Areas (HRCA)" include all those areas identified in section 16D.06.03, within Yakima County which are important and deserving of protection by nature of their value for the functional properties found in Section 16D.06.05.~~

~~16D.02.03.266 Hyporheic~~

~~"Hyporheic" means " means -a -groundwater- area -adjacent- to- and -below -channels -where- water- is~~

exchanged with channel water and water movement is mainly in the downstream direction.

~~16D.02.270~~ 16D.02.270 Intermittent Streams

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

~~16D.02.03.275~~ 16D.02.275 Lake or pond

"Lake or pond" means at inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam.

~~16D.02.281~~ 16D.02.281 Lowest Floor

~~Lowest floor" for purposes of administering 16D.05 means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.~~

~~16D.02.03.282~~ 16D.02.282 Manufactured Home

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and City of TOPPENISH Code ~~Yakima County Code Titles 13 and 15~~ separately define and distinguish between "manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle." "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

~~16D.02.03.283~~ 16D.02.283 Manufactured Home Park or Subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale in accordance with ~~YCC Title 15~~ LAND USE CITATION HERE of this Code.

~~16D.02.03.284~~ 16D.02.284 Manufactured Home Park or Subdivision, Existing

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these

floodplain management regulations.

~~16D-02.03.285~~ Minerals

"Minerals" means gravel, sand, and metallic and non-metallic substances of commercial value.

~~16D-02.03.290~~ Mining

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (~~.05.1516D-06.20~~). ~~Also see introduction to Appendix B.~~

~~16D-02.03.295~~ Native

"Native" means indigenous to, or originating naturally within ~~the Yakima County~~ City of TOPPENISHX.

~~16D-02.03.300~~ Natural Conditions

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

~~16D-02.302—New Construction~~

~~"New construction" for purposes of administering 16D-05 means structures for which the start of construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program. October 1, 1995, the effective date of the ordinance codified in this title shall be used for defining the term new construction as it applies to all other Critical Areas requirements established under this Title by Ordinance 8-1995.~~

~~16D-02.03.3023~~ Nonconforming Development or Nonconforming Structure

~~"Nonconforming structure" for purposes of administering 16D-05 means an existing structure that was lawfully constructed at the time it was built which was legally constructed prior to October 1, 1995 prior to, the effective date of the Shoreline Master Program but is no longer fully consistent with present regulations such as setbacks, buffer or yards; area; bulk; height or density standards due to subsequent changes to the master program this title, but which would not be permitted as a new structure under the terms of this title because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.~~

.03.303 Non-conforming Lot.

"Nonconforming lot" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

~~16D-02.03.304~~ Nonconforming Use

~~"Nonconforming use" for purposes of administering 16D-05 means the an existing shoreline use of a building, structure or land which was lawfully established prior to, existing and maintained at the effective date of provisions of the SMA or this title Shoreline Master Program but which, because of the application of this title to it, no longer conforms to the present use regulations due to subsequent changes to the~~

~~SMP, or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.~~

~~16D-02.03.305 Ordinary High-Water Mark (OHWM)~~

~~"Ordinary High-Water Mark" means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.~~

~~16D-02.03.310 Perennial Stream~~

~~"Perennial stream" means a stream that flows year-round in normal water years. Groundwater is a source of much of the water in the channel.~~

~~16D-02.03.320 Project Site~~

~~"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.~~

~~16D-02.321 Qualified Professional~~

~~"A qualified Professional" shall meet the following criteria:~~

- ~~a) A qualified professional for wetlands must have a bachelors degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.~~
- ~~b) A qualified professional for stream corridors must have a bachelors degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years professional experience related to the subject species/habitat type.~~
- ~~c) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.~~
- ~~d) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.~~
- ~~e) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.~~
- ~~f) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.~~
- ~~g) A qualified professional for economic studies must have a bachelors degree or higher in economics or business administration with 5 years of professional experience. The five year standard shall be waived for professionals with a PhD degree.~~
- ~~h) A qualified professional for habitat assessments and habitat management plans must have a bachelors degree or higher in biology and professional experience related to the subject species or habitat.~~
- ~~i) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined acceptable to the Administrative Official.~~

~~16D-02.03.322~~ Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

- 1) Built on a single chassis; ~~and~~
- 2) Four hundred square feet or less when measured at the largest horizontal projection; ~~and~~
- 3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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~~16D-02.03.325~~ Restore

"Restore" means to re-establish the basic functional properties ~~listed in Section 16D-06.05~~ that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions.

~~16D-02.03.330~~ Revetment

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

~~16D-02.03.335~~ Riparian Vegetation

"Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and other freshwater bodies and that depends on these water sources for soil moisture greater than would otherwise be available from local precipitation.

~~16D-02.03.340~~ Riprap

"Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone used for this purpose.

~~16D-02.03.345~~ Scour

"Scour" means the removal of underwater material by waves and currents, especially at the base or toe of a shore stabilization structure.

~~16D-02.03.355~~ Shoreline

For purposes of administering the Shoreline Master Program "Shoreline," means those water areas, the associated features, and the land areas within ~~the Yakima County~~ City of TOPPENISH that are subject to the State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as further identified in ~~.05.02 16D-10.03~~ (Shoreline Jurisdiction).

~~16D-02.03.360~~ Shore Stabilization

"Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the purpose of controlling stream undercutting, stream erosion or lake shore erosion.

~~16D-02.03.363~~ Single Improved Recreational Vehicle Site

For purposes of administering the Shoreline Master Program "Single Improved Recreational Vehicle Site" means a site on which a recreational vehicle, as defined in ~~16D.02.03.322~~, may be parked with minimal services (such as electricity, well and septic system), without a garage or carport, and without large accessory buildings (small detached storage sheds or accessory structures totaling 120 square feet or less may be allowed). Recreational vehicle sites not meeting these criteria are considered single family residences.

~~16D.02.03.365~~ Slope

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

~~16D.02.03.366~~ Solid Waste

"Solid waste" means all putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand, or gravel.

~~16D.02.03.367~~ Special Flood Hazard Areas

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

~~16D.02.368 — Start of Construction~~

~~"Start of construction" for purposes of administering 16D.05, means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. "Permanent construction" does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage, or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.~~

~~16D.02.03.370~~ Stream

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

~~16D.02.380 — Stream Corridor~~

~~"Stream corridor," as used in this title, means those features listed and described in Chapter 16D.06.03 and related appendices to this title.~~

16D.02.03.390 Structure

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

16D.02.395—Substantial Improvement

~~"Substantial improvement" for purposes of administering 16D.05 means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:~~

- ~~1) Before the improvement or repair is started; or~~
- ~~2) Before the damage occurred to a structure that has been damaged and is being restored. For the purposes of this definition "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The total value of all improvements to an individual structure undertaken subsequent to October 1, 1995, the effective date of this title, shall be used to define "substantial improvement" for said structure. The term does not, however, include either:~~
 - ~~1) Any project for improvement to a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or~~
 - ~~2) Any alteration of a structure listed on the National Register or Historic Places or a state inventory of historic places.~~

16D.02.03.400 Use

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

16D.02.03.415 Vegetative Buffer or Buffer

"Vegetative buffer or Buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of ~~a stream corridor, wetland and other hydrologically related shorelines or~~ critical areas as set forth in Chapter ~~16D.06.05 (Functional Properties) and 16D.07.04 (Wetland Functions and Rating)~~ **CRITICAL AREAS MUNICIPAL CODE CITATION HERE**. It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

16D.02.03.425 Wetland

"Wetland" or "wetlands" means that area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally

created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

~~16D-02.03~~.430 Wildlife

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

~~16D-02.03~~.435 Wildlife Habitat

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location, and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

~~16D-02.03~~.440 Works

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

Chapter ~~16D.043~~

ARTICLE I APPLICATION AND REVIEW PROCEDURES

~~Sections:~~ ARTICLE I GENERAL PROVISIONS

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General Provisions

~~16D.03.04.01~~ Shoreline Development Authorization Required

ARTICLE II – ABBREVIATED REVIEW ALTERNATIVES

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Inquiry and Early Assistance

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ARTICLE III REVIEW PROCESS~~Review Process~~

- ~~16D.03.04.0911~~ Review Process
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- ~~16D.03.17~~ Critical Areas Report Requirements
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ARTICLE IV PERMIT REVIEW CRITERIA~~Permit Review Criteria~~

- ~~16D.03.04.159~~ Substantial Development Permit
 - ~~16D.03.04.1621~~ Shoreline Conditional Uses
 - ~~16D.03.04.1722~~ Variance
 - ~~16D.03.04.1825~~ Minor Revisions to Approved Uses or Developments
 - ~~16D.03.04.1926~~ Non-Conforming Uses and Facilities
 - ~~16D.03.27~~ General Critical Areas Protective Measures
-

GENERAL PROVISIONS

~~16D.03.04.01~~ Shoreline Development Authorization Required

- 1) No new development, construction or use shall occur within Shoreline jurisdiction without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in section ~~16D.03.04.035 (Minor Activities Allowed without a Permit or Exemption)~~. Exceptions to Local Review and 04.07 (Exemptions). Exemptions, as provided for in sections ~~16D.03.04.07 through 16D.03.09~~, shall be considered as development authorization, including those taking place on federal lands and requiring permits or review as provided in ~~16D.01.07 (Applicability to Federal Agencies)~~ but qualifying for other exemptions under this chapter. All proposed uses and development occurring within Shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program.
- 2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within Shoreline jurisdiction shall be processed according to the provisions of this chapter and the Critical Areas Ordinance (SMC CITATION HERE)~~Project Permit Administration Ordinance (YCC Title 16B)~~.
- 3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by ~~Yakima County~~the City of TOPPENISH. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction, or use.
- 4) Permits issued in accordance with this title shall run with the land.

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~~INQUIRY AND EARLY ASSISTANCE~~

~~16D.03.02 Critical Area Identification Form and Critical Area Report Requirements~~

- ~~1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (16D.01.05), and Minor Activities Allowed Without a Permit or Exemption (16D.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.~~
 - ~~2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be~~
- YVCOG Jurisdictional SMP Page 48 Draft

provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.

3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with section 16D.03.17 (Critical Areas Reports) and section 16D.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:

- a) No critical areas present. If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical area report is not required.
- b) Critical areas present, but no impact. If the Administrative Official is able to determine the existence, location and type of critical area sufficiently to indicate that the project area is not within or adjacent to the critical area and that the proposed activity is unlikely to degrade the functions or values of the critical area, then the Administrative Official may waive the requirement for a critical area report. A summary of the determination shall be included in any staff report or decision on the permit or review.
- c) Critical areas may be affected by proposal. If the project area is within or adjacent to a critical area or buffer the Administrative Official may waive the requirement for a critical areas report if:
 - i) the Administrative Official is sufficiently able to determine the existence, location and type of the critical area;
 - ii) The project is of a small scale or uncomplicated nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland or stream channel would generally not meet this provision;
 - iii) The applicant agrees to provide mitigation that the Administrative Official deems adequate to mitigate for anticipated impacts. Restoration of degraded areas may serve as mitigation; and,
 - iv) A summary of the determination shall be included in any staff report or decision on the permit or review.
- d) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.
- e) As guidance on the practical application of the requirement for critical areas reports, reports will generally fall into the following groups based on increasing complexity and cost of the report:
 - i) Determining the absence of a critical area (sometimes resulting when initial indicators show the likely presence of a critical area);
 - ii) Determining the existence, location and type of a critical area;
 - iii) Determining impacts of an encroachment on a critical area and general mitigation measures;
 - iv) Developing a compensatory mitigation plan for replacement or mitigation of lost wetland or stream channel area.

16D.03.03 — Pre-application Conference

Any new development, construction or use falling under the provisions of this title shall be subject to a pre-YVCOG Jurisdictional SMP

application conference, except that project review for flood hazards shall follow the pre application requirements established to administer chapter 16D.05 (Flood Hazard Areas). The department shall schedule a pre application conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary staff. To assist in project review and discussion, prior to the pre application conference, the project proponent must submit a preliminary site plan showing the nature and scope of the proposed project along with any existing features of the property having a relationship to the project. The pre application conference is intended to allow the Administrative Official to:

- 1) Establish the scope of the project, development or use and the critical area features and shoreline resources involved or potentially impacted;
- 2) Consider the degree to which the project, development or use within shoreline jurisdiction may affect or impair a designated critical area or shoreline resource and identify potential concerns that may arise;
- 3) Identify other permits and authorizations which the project proponent may need to obtain;
- 4) Determine whether the project will be processed through the development authorization procedures of this title or coordinated through the review and approval procedures of another development permit or authorization required of the project from Yakima County;
- 5) Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.) to assist the proponent in meeting the provisions of this title and any applicable rules and regulations of other agencies and jurisdictions;
- 6) Determine whether there is a need for a preliminary site assessment or a technical assistance conference to better define the critical area issues and alternatives;
- 7) Determine whether the project can be processed as an exemption, or if not, what type of permits or reviews may be needed. Final determination of necessary permits will be made based on the project design and submittal materials;
- 8) Consider whether a preliminary site assessment may be scheduled in the field to determine the applicability of the development standards of this title to the project, based on information contained in the preliminary site plan.

16D.03.04 — Technical Assistance Conference

If requested by the project proponent or otherwise determined necessary, the department will arrange a meeting of representatives of those agencies and organizations with expertise, interest, or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance conference, the department will provide the potential participants with a project summary compiled from the pre application conference. The technical assistance conference may also involve a preliminary site assessment, if it is determined that resolution of issues related to the project can be achieved through an on-site review. The purpose of the technical assistance conference will be to:

- 1) Confirm and define the requirements of any other applicable local, state or federal

regulations;

~~2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;~~

~~3) Determine whether compliance with other existing statutes and regulations will adequately address the provisions of this title;~~

~~4) Provide the proponent with guidance, available data and information that will assist in complying with the provisions of this title and other ordinances and regulations;~~

~~5) Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;~~

~~6) Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the pre-application conference;~~

~~7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.~~

ABBREVIATED REVIEW ALTERNATIVES

~~16D.03.04.025~~ Minor Activities Allowed without a Permit or Exemption.

1) The following activities are included under ~~16D.02.05~~(1) (Applicability) and are allowed without a permit or exemption:

- a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting, and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down- trees and shrubs -within a buffer is not covered under this provision. Excavation, filling, and construction of new landscaping features, such as concrete work, berms, and walls, are not covered in this provision and are subject to review.
- b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption. Cleaning canals, ditches, drains, wasteways etc. without expanding their original configuration is not considered additional earthwork, as long as the cleared materials are placed outside the stream corridor, wetlands, and buffers.
- c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education, or scientific research.

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d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation.

e) Planting of native vegetation.

f) Noxious weed control outside vegetative buffers identified in Chapter 16D.06.16, except for area wide vegetation removal/grubbing.

g) Noxious weed control within vegetative buffers, if the criteria listed below are met.

Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:

i) Hand removal/spraying of individual plants only; or

ii) No area wide vegetation removal/grubbing.

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.04.03 Exceptions to Local Review.

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(1) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Periodic Review Checklist Guidance 6 September 2019

(2) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

(3) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

(4) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(5) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

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16D.03.04.046 Exemption—Procedural Requirements

Certain activities and uses are exempt from some permit processes and shall instead be reviewed using the procedures below, ~~except that Flood Hazard exemptions provided in 16D.05.20.06, shall follow procedures established to administer Chapter 16D.05 (Flood Hazard Areas).~~

1) Exemptions shall be construed narrowly, and any exempted development shall be consistent with the policies and provisions of this title.

2) Only those developments that meet the precise terms of one or more of the listed exemptions

may qualify for review under these provisions.

3) If any part of a proposed development is not eligible for exemption, then a development permit is required for the entire proposed development project.

4) The burden of proof that a development or use is exempt from the development permit process is on the applicant.

5) When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this title, such development must also obtain a Variance (~~16D-03.04.2217~~).

6) All activities exempt from the requirement for a substantial development permit shall use reasonable methods to avoid impacts to critical areas within shoreline jurisdiction. To be exempt from the requirement for a substantial development permit does not give permission to degrade a critical area or Shoreline or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense, according to section ~~16D-0605.1823~~ (Reclamation).

7) The proponent of an exempt activity shall submit a written request for permit exemption to the Administrative Official that describes the activity and states the exemption requested. The applicant shall submit to the Administrative Official a written description of the project that demonstrates compliance with applicable standards.

8) The Administrative Official shall review the exemption request to verify that it complies with this title.

9) The Administrative Official shall approve or deny the exemption.

10) A formal letter of exemption shall be provided where an exempt activity is approved under this title. A copy of the exemption shall be kept on file by the Administrative Official. If an exemption cannot be granted, the Administrative Official shall notify the applicant in writing of the reason, at which time the applicant may pursue other permit processes under this title.

11) Conditions ~~may be~~ attached to the approval of exempted developments and/or uses as necessary to assure continued consistency of the project with this title.

12) Exempt activities are identified in the following locations. Such activities are stated as exempt from the substantial development permit or flood hazard permits. However, this provision does not exempt an activity from other permits or reviews that may be required under this title.

- a) Those activities listed in WAC 173-27-040, and summarized in sections 16D-03.04.097 (~~Exemptions from HRCAs, Wetlands, and Shorelines~~) are exempt from the substantial development permit requirements ~~for Wetlands (16D-07), Hydrologically Related Critical~~

Areas Features (16D.06.03) and Shorelines (16D.10);

b) Those activities listed in sections 16D.05.20.060 are exempt from the Flood Hazard Permit requirements for Flood Hazard Areas (16D.05);

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.04.05 Permit Filing Procedures.

After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.

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(1) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

(2) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one-day appeal period starts with the date of filing, which is defined below:

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(a) For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.

(b) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

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(c) For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

.04.06 WSDOT Project Special Procedures.

(1) The City will conduct permit reviews for WSDOT projects on state highways within 90 days, pursuant to RCW 47.01.485.

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(2) Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

~~16D.03.04.077~~ Exemptions for Hydrologically Related Critical Areas, Wetlands and Shorelines

The ~~following~~ development activities identified in WAC 173-27-040, and summarized below, are exempt from substantial development permits that are required within Shoreline jurisdiction designated in chapter ~~16D.40.0305.02~~ (Shoreline Jurisdiction):

- 1) Construction by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this title. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within ~~a contiguous~~ a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high ~~water mark and~~ water mark and.

the ~~perimeter of a~~ wetland. ~~Normal~~ appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high ~~water mark.~~

2) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. ~~A normal~~ ~~normal~~ A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting ~~the existing~~ ~~the existing~~ wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

3) Development and construction for which the total cost or fair market value, whichever is higher, does not exceed ~~five thousand 7,047~~ dollars (adjusted for inflation as determined by the Washington ~~Office of Financial Management~~ ~~using methods provided in~~ RCW90.58.030(3)(e) and WAC 173-27-040(2)(a)), provided such development and construction does not ~~involve excavation, fill, or other work which is not consistent with the functional properties of stream corridors and other hydrologically related critical areas as set forth in Section 16D.06.05 of this title, and provided that any such development and construction within Shoreline jurisdiction does not~~ materially interfere with the public use of the water or shorelines of the state. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

4) Construction or practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, and/or alteration of the contour of the land by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

5) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, —within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause additional substantial adverse effects to shoreline resources or environment. The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair. Replacement of non-conforming uses or facilities may also be subject to section ~~16D-03.04.26-19~~ (Non-conforming Uses and Facilities).

6) Emergency construction necessary to protect property from damage by the elements, "emergency" is an unanticipated and imminent threat, which requires immediate action or response within a time period too brief to allow full compliance with this title. The following criteria must exist to qualify any action under an emergency provision:

- a) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident; and
- b) The emergency response must be confined to the action necessary to protect life or property from damage; and
- c) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat; and
- d) The emergency response applies only to the period of time in which the actual emergency exists; and
- e) The request must be accompanied by a paid permit application or a request for a non-emergency exemption. Submittal requirements beyond normal exemption submittal requirements are waived until after the emergency is deemed abated. As soon as the emergency is deemed abated by appropriate authorities, compliance with the requirements of this title is required, and may include removal of the emergency construction if non- structural construction measures can adequately deal with site issues.

7) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family and multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if ~~the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be subject to a substantial development permit;~~

(a) In fresh waters the fair market value of the dock replacement does not exceed twenty-two thousand five hundred (\$22,500), and are of equal or lesser square footage than the existing dock being replaced, or

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(b) The fair market value of new docks constructed in fresh waters does not exceed eleven thousand two hundred (\$11,200) dollars

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However, subsequent construction having a fair market value exceeding the amount above occurs within five years of completion of the prior construction, the subsequent construction must be considered a substantial development for the purpose of these regulations.

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8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other manmade facilities that now exist or are hereinafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

9) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, ~~effective date for this Shoreline Master Program, for land within Shoreline jurisdiction,~~ which were created, developed, or utilized primarily as a part of an agricultural drainage and diking system.;

10) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.;

11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy facilities ~~— site locations~~);.

12) Watershed restoration projects that are authorized by the sponsor of a watershed restoration plan and that implements the plan or a part of the plan; and meets the requirements of WAC 173-27-040(6), as amended.;

13) ~~Site exploration~~Site exploration- and- investigation- activities -that -are -prerequisite -to -preparation -of- an application for development authorization under this chapter, if:

a) The activity does not interfere with the normal public use of surface waters within Shoreline jurisdiction.;

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b) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values.;

c) The activity does not involve the installation of any structure, and upon completion of the activity ~~the vegetation~~the vegetation and- land -configuration of -the -site -are -restored to -conditions existing before the activity.;

d) A private entity seeking development authorization within Shoreline jurisdiction must first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.

14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW (SEPA);

15) A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage that meets the requirements of WAC 173-27-040(p) as amended.

- a) The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose; ~~and;~~
- b) The project has received hydraulic project approval, when required, by the department of fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code); ~~and~~
- c) The Administrative Official has determined that the project is consistent with this title; ~~and~~
- d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 (Fish Habitat Enhancement Projects) are deemed to be consistent with this title.

16) Hazardous substance remedial actions, which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW (Model Toxics Control Act) or when the Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model Toxics Control Act). The Department of Ecology shall assure that such projects comply with the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA Guidelines) and the Shoreline Master Program, when applicable.

17) The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers, provided that:

- a) A dead tree within a buffer may be shortened to the point that the tree will not strike a structure or defined vehicle parking area. The remainder shall be maintained to provide wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall may be removed completely. ~~;~~
- b) A ~~diseased or~~ damaged tree ~~may be~~ removed as ~~determined by the~~ Administrative Official. ~~;~~
- c) The removed portion of trees should be placed within the vegetative buffer area as wildlife habitat, unless it will interfere with a maintained vegetation area identified in section ~~16D-03.04.0205~~ (a) (Minor Activities), or as determined otherwise by the Administrative Official. Portions of trees to be removed from the buffer area should be felled to the outer edge of a vegetative buffer and dragged out. Heavy equipment is not allowed within the buffer, except within areas identified in ~~16D-03.04.025~~ (a) (Minor Activities). Damaged riparian vegetation must be repaired. ~~;~~
- d) Each ~~tree that is~~ felled ~~or~~ topped shall be ~~replaced in a~~ manner acceptable to ~~the~~

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Administrative Official.

(18) The external or internal retrofitting of an existing structure with exclusive purpose of compliance with the Americans with Disabilities Act (ADA) of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

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~~16D.03.08~~ — Exemptions for Geologically Hazardous Areas

~~The following development activities are exempt from substantial development permits that are required for Geologically Hazardous Areas designated in chapter 16D.08:~~

- ~~1) Additions to or alteration of existing single family residences;~~
- ~~2) Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill or irrigation;~~
- ~~3) Structures less than 200 square feet that are not used as a place of employment or residence (fences, sheds, gazebos, etc.);~~
- ~~4) Oil, gas, wind or other exploration that does not include explosions, roads, excavation or fill.~~

~~16D.03.04.0810~~ Mitigation requirements

1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:

- a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
- c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- d) ~~Reducing or~~ Reducing or -eliminating- the -impact -over -time -by -preservation- and -maintenance operations during the life of the action.
- e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- f) Monitoring the impact and taking appropriate corrective measures.

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2) Mitigation for individual actions may include a combination of the above measures.

3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved Mitigation Plan and best available science in accordance with an approved critical areas report and SEPA documents. Mitigation shall

not be implemented until after approval of the Mitigation Plan.

3) ~~4)~~ Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site so as to result in no net loss of critical areas functions and values.

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4) Mitigation shall not be implemented until after the administrator's approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

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5) Mitigation sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas in the following order. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference;

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a. Avoiding the impact altogether by not taking a certain action or parts of an action;

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b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

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c. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

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d. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

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e. Mitigation for individual actions may include a combination of the above measures. (Ord. 2011-6 § 2 (Exh. A), 2011).

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6) Mitigation plan requirements. When mitigation is required, the applicant shall submit for approval by the city a mitigation plan as part of the critical area report. The mitigation plan shall include:

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a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

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i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria: identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

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ii. A description of the report author's experience to date in restoring or creating the type of critical area proposed

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- iii. A review of the best available science supporting the proposed mitigation; and
- iv. An analysis of the likelihood of success of the compensation project.
- b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.
- c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:
 - i. The proposed construction sequence, timing, and duration;
 - ii. Grading and excavation details;
 - iii. Erosion and sediment control features;
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - v. Measures to protect and maintain plants until established.
- d. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings and topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.
- e. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, five, and seven after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years, but monitoring of sensitive target communities such as forested and scrub-shrub communities may be required for 10 years or more.
- f. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
- g. Estimates of Cost. The mitigation plan shall include an estimate of the costs to implement the required activities under the proposed plan to include both labor and materials. Any required financial guarantees shall be posted in accordance with TMC 17.70.390, Bonds to ensure mitigation, maintenance, and monitoring. (Ord. 2011-6 § 2 (Exh. A), 2011).

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7) Innovative mitigation.

a. The city should encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation and mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

- i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
- ii. The applicant(s) demonstrates the organizational and fiscal capability to act cooperatively;
- iii. The applicant(s) demonstrates that long-term management of the habitat area will be provided; and
- iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

8) Determination. The administrator shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of this chapter. The administrator's determination shall be based on the criteria of TMC 17.70.280, Review criteria.

9) Review criteria.

a. The review of any alteration to a critical area, unless otherwise provided for in this chapter, shall be based on the following criteria.

- i. The proposal minimizes the impact on critical areas in accordance with TMC 17.70.240, Mitigation sequencing.
- ii. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- iii. The proposal is consistent with the general purposes of this chapter and the public interest.
- iv. Any alterations permitted to the critical area are mitigated in accordance with TMC 17.70.230, Mitigation requirements.
- v. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
- vi. The proposal is consistent with other applicable regulations and standards.

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b. The city may approve a project application and attach such conditions necessary to mitigate impacts to critical areas in order to conform to the standards required by this chapter.

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c. Except as provided for by this chapter a project shall be denied if impacts to critical areas cannot be adequately mitigated in the sequencing order of preferences of TMC,17.70.240.

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10) Report acceptance. If the administrator determines that the report together with proposed mitigation meets the criteria in TMC,17.70.280 (Review criteria) and complies with the applicable provisions of this chapter, the administrator shall prepare a written notice of determination and identify any required conditions of approval. Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the administrator. A favorable determination should not be construed as endorsement or approval of any underlying permit or approval. (Ord. 2011-6 § 2 (Exh. A), 2011).

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11) Report rejection.

a. If the administrator determines that the report and/or proposed mitigation does not adequately mitigate impacts of the proposed project in accordance with the criteria set forth in TMC,17.70.280 (Review criteria) and the provisions of this chapter, the administrator shall prepare written notice of the determination that includes findings of noncompliance. No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this chapter.

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b. Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this chapter, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the administrator may reopen the critical area review and make a new determination based on the revised report. (Ord. 2011-6 § 2 (Exh. A), 2011).

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12) Completion of the critical area review. The city's determination regarding critical areas pursuant to this chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

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REVIEW PROCESS

~~16D.03.04.0911~~ Application Submittal

1) Application for a development authorization under this title shall be made on forms provided ~~by the~~ department. ~~The application~~ The application -submittal -shall- include- a -site -plan -

consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

- (a) The boundary of the parcel(s) of land upon which the development is proposed.
- (b) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
- (c) Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
- (d) A delineation of all wetland areas that will be altered or used as a part of the development.
- (e) A general indication of the character of vegetation found on the site.
- (f) The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
- (g) Where applicable, a landscaping plan for the project.
- (h) Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
- (i) Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
- (j) Quantity, composition and destination of any excavated or dredged material.
- (k) A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
- (l) Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
- (m) On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses. (WAC 197-27-180)~~drawn to scale showing:~~

- ~~a) the actual shape and dimensions of the property site to be used;~~
- ~~b) existing and proposed structures;~~
- ~~c) excavation, fill, drainage facilities, topography, slope, and;~~
- ~~d) such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.~~

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2) The site plan should also show the location of all critical areas, such as those identified in ~~sections 16D.03.02 (Critical Areas Identification Form and Critical Areas Reports) and 16D.03.17 (Critical Areas Report Requirements), CITATION TO CAO~~ include all required critical areas reports prepared in conformance ~~with 16D.03.17CITATION TO CAO, and include the permit information required either in YCC Title 16B (Project Permit Administration) or in chapter 16D.05.44 (Flood Hazard Protection Administration), as appropriate.~~

3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title, ~~or requested on the basis of the pre-application conference (16D.03.03), or technical assistance conference (16D.03.04).~~

~~16D.03.04.102~~ Determination of Review Process

1) ~~The Administrative~~The Administrative Official shall ~~determine~~ from ~~the~~ application submittal, ~~and~~ other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as ~~is possible~~is possible and shall ~~inform the project applicant in writing of any application needs.~~ Available information used in this determination may include:

- a) ~~critical areas identification form;~~
- b) ~~pre-application conference information;~~
- c) ~~technical assistance conference information.~~

~~3)~~ 2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are ~~general~~general, and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one (1) permit or review may be needed for a project.

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Table 3-1

General Permits or Reviews
Substantial Development. Shoreline Substantial development projects include any development subject to RCW Chapter 90.58, the Shoreline Management Act.
Exemptions. Exemptions are generally minor activities that do not need to go through the permit process.
Specific Permits
Conditional Use Permit. Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in Table 16D.1005.105 as conditional uses, and that are usually seen as uses that either do not need a Shoreline location, are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny
Variance. A Shoreline Variance may be used within Shoreline jurisdiction to grant relief from specific performance standards where there are extraordinary circumstances that will impose unnecessary hardships
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of

certain changes to a project that has previously received a permit

~~Flood Hazard Permit. A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in chapters 16D.05.20 through 16D.05.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human-occupied structures or safe access.~~

~~16D.03.04.113~~ Development Authorization – Review Procedure

Upon ~~submittal and acceptance of a completed development authorization application, the Administrative Official shall process and review the application as follows, except that permits or reviews required for critical areas under chapter 16D.05 (Flood Hazard) shall be processed using the permit development standards, approval criteria and other provisions established in chapter 16D.05.~~

1) Development authorizations shall be processed consistent with review procedures provided in ~~CITATION TO PERMIT REVIEW PROCESS CODE YCC Title 16B (Project Permit Administration), and with any specific processes requirements provided in 16D.03.04.159 through 16D.03.04.1926~~ (specific permit descriptions), including but not limited to:

- a) ~~S~~ubmittals;
- b) ~~C~~ompleteness ~~R~~eview;
- c) ~~N~~otices;
- d) Reviewing Official's Decision
- ~~e~~d) ~~H~~earings;
- ~~f~~e) ~~d~~ecisions; and,
- ~~g~~f) Decision Appeals.

2) ~~Development authorizations shall be reviewed for conformance with the applicable development standards provided in 16D.03.27 (General Critical Areas Protection Measures), and in chapters 16D.06 through 16D.10, except that:~~

- a) ~~Forest practices under a state or federal approval lying within Shoreline jurisdiction, which meet the standards of 16D.06.24(1) (Forest Practices), shall be deemed to be meeting acceptable critical areas protection measures and are only subject to the development standards of 16D.10 (Shorelines), when applicable;~~
- b) ~~For rangeland livestock grazing operations, both inside and outside Shoreline jurisdiction, the Administrative Official may waive compliance with development standards in Chapter 16D.06 (Fish and Wildlife Habitat and the Stream Corridor), 16D.07 (wetlands), 16D.08 (Geologically Hazardous Areas), and 16D.09 (CARA), but not for Chapter 16D.10 (Shorelines) or those uses and activities listed in section 16D.06.10 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be provided that has been prepared using all applicable US Department of Agriculture—National Resource Conservation Service best management practices designed to protect streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing operations. An acceptable Resource Management Plan is deemed to consist of acceptable critical areas protection measures capable of dealing with impacts of grazing activities.~~

~~dispersed across large areas. This provision is not intended to apply to pasture grazing, hobby farms, or confinement feeding operations.~~

~~23~~) Decisions on a development authorization shall be consistent with section ~~16D-03.04.124~~ (Authorization Decisions – Basis for Action), ~~16D-03.04.135~~ (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in ~~16D-03.04.159~~ through ~~16D-03.04.1926~~ (specific permit descriptions).

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~~34~~) In addition to the review procedures of ~~YCC Title 16B ADMINISTRATIVE CODE CITATION~~, the following ~~additional~~ procedures shall apply to development authorizations within Shoreline jurisdiction:

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- a) The public comment period for Shoreline permits shall conform to WAC 173-27-110 (30 days), except that the public comment period for limited utility extensions and shoreline stabilization measures for bulkheads to protect a single-family residence and its appurtenant structures shall conform to WAC 173-27-120 (20 days);
- b) For limited utility extensions and bulkheads for a single-family residence, the time for the ~~County City~~ to issue a ~~decision shall~~ decision shall conform to WAC 173-27-120 (21 days from the last day of the comment period);
- c) The effective date of a Shoreline permit shall conform to WAC 173-27-90 (the later of the permit date, or the date of final action on subsequent appeals of the Shoreline permit, unless the applicant notifies the Department of delays in other necessary construction permits);
- d) The expiration dates for a shoreline permit regarding start of construction and completion, and the extension of deadlines for those dates shall conform with WAC 173-27-090 (start construction within 2 years, complete construction within 5 years, 1 year extensions of those dates, and allowance for the administrative official to set alternative permit expiration dates with a showing of good cause).
- e) For limited utility extensions and bulkheads for single family residences, the time for the ~~County City~~ to complete any local appeal shall conform to WAC 173-27-120 (30 days);
- f) The Department shall send its decision and the application materials to the Department of Ecology after the local decision and any local appeal procedures have been completed in conformance with WAC 173-27-130;
- g) For Substantial Development permits, the Department of Ecology will file the permit without additional action according to WAC 173-27-130;
- h) For Conditional Use and Variance permits, the Department of Ecology will follow WAC 173-27-130 and WAC 173-27-200 (issue a decision within 30 days of the date of filing);
- i) The appeal period of a Department of Ecology action to the Shoreline Hearings Board will follow WAC 173-27-190 (21 days from the date of filing for a Substantial Development permit, or issuing a decision on a Conditional Use or Variance permit);
- j) The Shorelines Hearings Board will follow the rules governing that body (RCW 90.58).

~~16D-03.04.124~~ Authorization Decisions – Basis for Action

The action on any development authorization under this title shall be based upon the following criteria:

- 1) Danger to life and property that would likely occur as a result of the project; and
- 2) Compatibility of ~~the project~~ the project with the critical area features on, -adjacent to, or -near the property; and
- 3) ~~Shoreline~~ values and ecological functions; and public access and navigation; and
- 4) ~~3)~~ Conformance with the applicable development standards in this title; and
- 5) Requirements of other applicable local, state, or federal permits or authorizations, including compliance ~~with - flood hazard mitigation damage preventions -~~ requirements of Chapters ~~16D-05-20 through 16D-05-72~~ FLOOD DAMAGE CITATION; and
- 6) Adequacy of the information provided by the applicant or available to the department; and
- 7) Ability of the project to satisfy the purpose and intent of this title; and
- 8) Based upon the project evaluation, the decision maker shall take one of the following actions:
 - a) Grant the development authorization; or
 - b) Grant the development authorization with conditions, as provided in ~~16D-03.04.135~~ (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site; or
 - c) Deny the development authorization.
- 9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating ~~the reasons~~ the reasons upon which the decision is based.

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~~16D-03.04.135~~ Conditional Approval of Development ~~Authorization~~

In granting any development authorization, the decision maker may impose conditions to:

- 1) Accomplish the purpose and intent of this title; and/or
- 2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area, and on Shoreline ecological functions; and/or
- 3) Restore important resource features that have been degraded or lost because of past or present activities on the project site; and/or
- 4) Protect designated critical areas and Shoreline jurisdiction, from damaging and incompatible development; and/or
- 5) Ensure compliance with specific development standards in this title.

~~16D.03.04.146~~ Fees and Charges

The ~~board of county commissioners~~City Council establishes the schedule of fees and charges listed in ~~Yakima County Code~~City of XXXX, -Title CITY FEE TITLE HERE 20 (~~Yakima County~~City of XXXX- Fee - Schedule), ~~for~~ development -authorizations, variances, appeals and other matters pertaining to this title.

~~CRITICAL AREAS REPORTS~~

~~16D.03.17~~ Critical Areas Report Requirements

- ~~1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Title 16B.04, where determined necessary through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.~~
- ~~2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.~~
- ~~3) The critical area report shall:
 - ~~a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;~~
 - ~~b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical areas, the site, and other public and private properties and facilities resulting from the proposal; and assess impacts on the critical area from activities and uses proposed; and~~
 - ~~c) Identify proposed mitigation and protective measures as required by this title.~~~~
- ~~4) The critical areas report shall include information to address the Supplemental Report Requirements for Specific Critical Areas (16D.03.18).~~
- ~~5) The Administrative Official shall review the critical areas report for completeness and accuracy, and shall consider the recommendations and conclusions of the critical areas report to assist in making decisions on development authorizations and to resolve issues concerning critical areas jurisdiction, appropriate mitigation, and protective measures.~~
- ~~6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be demonstrated to the satisfaction of the Administrative Official that the previously prepared report is adequate for current analysis. Future land use applications may require preparation of new, amended, or supplemental critical area assessment reports. Reports prepared for nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if relevant to the current analysis and meeting the above standards. The Administrative Official may also require the preparation of a new critical area assessment report or a supplemental report when new~~

information is found demonstrating that the initial assessment is in error. If the Administrative Official requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.

7) ~~The Administrative Official may reject or request revision of the critical areas report when the Administrative Official can demonstrate that the assessment is incomplete, or does not fully address the critical areas impacts involved.~~

8) ~~To avoid duplication, the reporting requirements of this chapter shall be coordinated if more than one critical area report is required for a site or development proposal.~~

9) ~~Applicants should provide reports and maps to the County in an electronic format that allows site data to be incorporated into the County critical areas database, provided that the County may waive this requirement for single family developments. Applicants are encouraged to coordinate with the Administrative Official regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software.~~

10) ~~At a minimum, a critical areas report shall include the following information:~~

- ~~a) A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers within and abutting the site, including but not limited to effects related to clearing, grading, noise, light/glare, modification of surface or subsurface flow, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations. Projects in frequently flooded areas must comply with the requirements of section 16D.05.20 through 16D.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the report shall identify the type of hazard and assess the associated risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;~~
- ~~b) A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the description shall identify the type and characteristics of the hazard;~~
- ~~c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazard areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;~~
- ~~d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible.~~
- ~~e) When impacts cannot be avoided, the report shall include a plan describing mitigation.~~

~~to replace critical area functions and values altered as a result of the proposal, or to reduce flood or geologic hazards to critical areas, the site, and other public and private properties. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the plan shall address mitigation for impacts to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;~~

~~f) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and~~
~~g) Additional reasonable information requested by the Administrative Official for the assessment of critical areas impacts or otherwise required by the subsequent articles of this title.~~

11) A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrative Official.

12) The Administrative Official may limit the required geographic area of the critical area report as appropriate.

13) ~~Compensatory Mitigation Plans~~—When compensatory mitigation, as described in section 16D.03.10 (Mitigation Requirements) is required or proposed for wetland areas or stream channels, the applicant shall submit for approval by Yakima County a mitigation plan as part of the critical area report, which includes:

- a) ~~Environmental Goals and Objectives.~~ The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
 - i. ~~A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area.~~
- b) ~~A review of the best available science supporting the proposed mitigation;~~
- c) ~~A description of the report author's experience to date in restoring or creating the type of critical area proposed;~~
- d) ~~Performance Standards.~~ The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;
- e) ~~Detailed Construction Documents.~~ The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
 - i) ~~The proposed construction sequence, timing, and duration;~~
 - ii) ~~Grading and excavation details;~~
 - iii) ~~Erosion and sediment control features;~~

- iv) A planting plan specifying plant species, quantities, locations, size, spacing, and density, and;
- v) Measures to protect and maintain plants until established, and;
- vi) Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits.

f) ~~Monitoring Program.~~ The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

g) ~~Contingency Plan.~~ The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

h) ~~Financial Guarantees.~~ The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with section 16D.03.27(1) (Financial Guarantees).

14) Innovative Mitigation:

a) Yakima County encourages innovative mitigation projects that are based on the best available science. The mitigation plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

- i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
- ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
- iii) The group demonstrates that long term management of the habitat area will be provided;
- iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
- v) There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
- vi) The proposed project results in equal or greater protection and conservation of

critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;

vii) The plan is consistent with the general purpose and intent of this chapter;

viii) ~~The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and~~

ix) ~~The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.~~

b) ~~Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.~~

c) ~~Projects that propose compensatory wetland mitigation shall also use the standards in sections 16D.07.05 (Compensatory Mitigation Requirements). For those situations where a mitigation bank may provide an opportunity for mitigation, then the requirements in section 16D.07.06 (Wetland Mitigation Banks) shall apply.~~

~~16D.03.18 — Supplemental Report Requirements for Specific Critical Areas~~

~~1) Stream Corridors. When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:~~

~~a) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance the functional properties listed in section 16D.06.05 (Functional Properties);~~

~~b) Where there is evidence that proposed construction lies within an immediate zone of potential channel migration, representing a future hazard to the construction, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.~~

~~2) Upland Wildlife — When a critical areas report is required for Upland Wildlife Habitat Conservation Areas, it shall include the following:~~

~~a) Habitat Assessment: A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and areas with which such species have a primary association. The presence or absence assessment shall incorporate the time-sensitive nature of species use. The landowner may submit an assessment prepared by the state or federal agency with jurisdiction over the species. This assessment is time sensitive and the assessment must be completed no more than 36 months prior to the date the critical areas application is deemed complete.~~

~~b) If the habitat assessment determines that such habitat area is present on site, a management plan is required that follows published federal, or state, management recommendations. The Administrative Official shall confer with the appropriate agency and consider their comments through the review process.~~

~~3) Wetlands When a critical areas report is required for Wetlands, it shall include the following:~~

- ~~a) The exact location of a wetland's boundary and wetland rating shall be determined through the performance of a field investigation by a qualified wetland professional applying the Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94 — <http://www.ecy.wa.gov/pubs/9694.pdf>) as required by RCW 36.70A.175 (Wetlands to be delineated in accordance with manual), and the Washington State Wetland Rating System for Eastern Washington (Ecology Publication # 04-06-15), as amended;~~
- ~~b) All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off-site of the project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to aerial photos, land-based photos, soils maps, or topographic maps;~~
- ~~c) A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information:
 - ~~i) A statement specifying all assumptions made and relied upon;~~
 - ~~ii) Documentation of any fieldwork performed on the site, including field data sheets for delineations, the wetland rating form, baseline hydrologic data, etc.;~~
 - ~~iii) A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;~~
 - ~~iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;~~~~
- ~~d) For projects that will affect the wetland or it's buffer, provide the following:
 - ~~i) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions and values listed in section 16D.07.04(1) (Wetland Functions and Rating), and section 16D.06.05 (Functional Properties);~~
 - ~~ii) Mitigation sequencing pursuant to section 16D.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values. Mitigation ratios may be necessary and should follow the guidance provided in section 16D.07.05 (Compensatory Mitigation) of the wetland chapter.~~~~
- ~~e) For category II and III wetlands with wetland rating habitat scores over 20 points, a wildlife habitat survey report and a habitat protection plan specific to wildlife using the wetland shall be submitted by a qualified professional. If a contiguous 100-foot wide protected habitat corridor exists between the existing wetland buffer complex and another adjacent wetland habitat found in the survey, this provision may be waived.~~
- ~~f) Wetland buffers set forth in Table 6-1 shall only be minimized through application of the shoreline variance permit process and its provisions and criteria.~~

~~4) Geologically Hazardous Areas When a critical areas report is required for a Geologically Hazardous Area, it shall include the following, provided that the Administrative Official may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:~~

- a) A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;
- b) A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard (16D.08.04);
- c) A description of the vulnerability of the site to seismic and other geologic processes and hazards;
- d) A description of any potential hazards that could be created or exacerbated as a result of site development;
- e) For developments in or affecting landslide hazard areas the report shall also include:
 - i) Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the YCC Title 13 (Building Code);
 - ii) An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by stream meandering, or other forces acting on the toe of the slope;
 - iii) Description of the run-out hazard of landslide debris to the proposed development that starts up slope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down-slope properties and critical areas.

5) Flood Hazards

- a) Prior to authorization of any major construction project within a floodplain which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared that establishes any new flood elevations that would result for the one hundred year flood frequency if the project were implemented.

6) Geotechnical Analysis for Flood Hazard Reduction and Shore Modification within Shoreline Jurisdiction

- a) When a "Geotechnical report" or "geotechnical analysis" is required within Shoreline jurisdiction, it shall include:
 - i) a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes;
 - ii) conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and;iii) measures to mitigate potential site specific and

cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down current properties.

b) A geotechnical analysis for structural stabilization measures must demonstrate the necessity for shore stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shore erosion with out such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

c) A geotechnical analysis for structural flood hazard reduction measures must also demonstrate, by a scientific and engineering analysis, feasible alternatives to structural improvements that:

- i) Such measures are necessary to protect existing development;
- ii) That nonstructural measures are not feasible;
- iii) That impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and;
- iv) That appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5) (General master program provisions – Shoreline vegetation conservation).

PERMIT REVIEW CRITERIA

~~16D-03.04.159~~ Substantial Development Permit

- 1) Classification criteria - Substantial Development permits include any development subject to RCW Chapter 90.58 (Shoreline Management Act).
- 2) Process - Substantial Development permits shall be processed as an Administrative Class 1 non-exempt permit Type II review in accordance with ~~YCC Title 16B (Project Permit Administration)~~ TMC 14.08.010(B).
- 3) Decision Criteria – Decisions on Substantial Development permits shall be based on the general decision criteria found in section ~~16D-03.04.124~~ (Authorization Decisions – Basis for Action).

~~16D-03.04.1624~~ Shoreline Conditional Uses

- 1) Classification Criteria - Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in section ~~16D-10.05.1~~ (Shoreline Land Use table) as Conditional Uses, and that are usually seen as uses that either do not need a shoreline location are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny. Unclassified Conditional projects, uses and development are uses which may be proposed in the future, but were not considered during development of the SMP. It is understood, however, that there may

be special circumstances or a special type or style of conditional use that would make shoreline siting of special cases acceptable to the goals, policies, and intentions of the Master Program. The purpose of a conditional use permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020 (Legislative findings). In authorizing a conditional use, special conditions may be attached to the permit by ~~the Yakima County~~ City of TOPPENISH or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the master program.

2) Process – All applications for a conditional use shall be processed as a Class 2 permit in accordance with the procedures described in TMC 14.08.020a ~~Type II review in accordance with YCC Title 16B (Project Permit Administration).~~

3) Decision Criteria - The decision on a conditional use shall be based upon the criteria established in Section ~~16D-03.04.124~~ (Authorization Decisions – Basis for Action) together with the criteria established below. The burden of proving that the project is consistent with the applicable criteria shall be upon the applicant, who must supply evidence or information demonstrating to the satisfaction of the Administrative Official that all of the following criteria will be met.

a) Failure to satisfy any one of the criteria below shall result in denial of the conditional use.

- i) ~~That the~~ The proposed use will be consistent with the policies of RCW 90.58.020 (Legislative findings); ~~and~~
- ii) ~~That the~~ The proposed use will not interfere with the normal public use of public shorelines; ~~and~~
- iii) ~~That t~~ The proposed use of the site and design of the project will be compatible with other permitted uses within the area; ~~and~~
- iv) ~~That t~~ The ~~proposed use~~ proposed use will cause no significant adverse effects to the shoreline environment designation in which it is located; ~~and~~
- v) That the public interest suffers no substantial detrimental effect.

b) Consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 (Legislative findings) and shall not produce substantial adverse effects to the shoreline environment.

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~~16D-03.04.1722~~ Variance

1) Classification Criteria - A Variance may be used within Shoreline jurisdiction to grant relief from specific bulk, dimensional or performance standards where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the standards will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020 (Legislative findings). Shoreline variances from the use

regulations of the master program are prohibited.

2) Process – Requests for a Variance permit shall be processed as a Class 2 permit in accordance with the procedures described in TMC 14.08.020~~Type II review in accordance with YCC Title 16B (Project Permit Administration)~~. Each request for a Variance shall be considered separately and prior to any decision on an application for development authorization. Any decision to approve or conditionally approve the development authorization will include and specifically cite only those variances approved for inclusion with the project.

3) Decision Criteria - The decision on a Variance shall be based upon the criteria established in WAC 173-27-170~~Section 16D-03-14 (Authorization Decisions – Basis for Action)~~ together with the criteria established below. Variance requests shall cite the specific standard or condition from which relief is requested and be accompanied by the evidence necessary to demonstrate the variance is in conformance with all of the criteria below. Failure to satisfy any one of the criteria shall result in denial of the variance.

- a) Special Conditions. There is a hardship identified in (b) below, that is specifically related to a unique natural or physical condition associated with the project site, such as irregular lot shape, size, or natural features, which is not the result of a deed restriction, a lack of knowledge of requirements involved when the property was acquired, or other actions resulting from the proponent's own actions; and
- b) Unnecessary Hardship. The strict application of a standard would deprive the proponent of a reasonable use of the land or rights commonly enjoyed by other properties in the same area. That greater profit would result if a variance were granted is not evidence of a hardship; and
- c) General Compatibility. The project is generally compatible with other permitted or authorized uses in the immediate project area and with uses planned for the area under the comprehensive plan and/or the Shoreline Master Program and granting the variance will not cause adverse effects to abutting and adjacent properties or the critical area; and
- d) Special Privilege. The requested variance would not constitute a grant of special privilege not enjoyed by other abutting and adjacent properties and the variance is the minimum necessary to afford the requested relief; and
- e) Public Interest. The requested variance will not endanger the public safety or health and that the public interest will not be compromised; and
- f) Cumulative Impact. In the granting of any variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if other variances were to be granted in the area where similar circumstances exist, the total cumulative effect of the variances shall also remain consistent with the policies of this chapter and shall not produce substantial adverse impacts to the designated critical area; and
- g) That the public rights of navigation and use of the shorelines will not be adversely affected.

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~~16D.03.04.1825~~ Minor Revisions to Approved Uses or Developments

1) Classification Criteria – Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.

a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that does not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).

b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements, or with the Shoreline Master Program. Such changes may be approved as a minor revision, if the Administrative Official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit.

c) No additional over water construction will be involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.

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d) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit: PROVIDED, that revisions involving new structures not shown on the original site plan shall require a new permit, and: PROVIDED FURTHER, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations.

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e) Landscaping may be added to a project without necessitating an application for a new permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the this title for the area in which the project is located.

f) The use authorized pursuant to the original permit is not changed.

g) No additional significant adverse environmental impact will be caused by the project revision.

2) Process – Minor revisions to existing permits shall be processed as a ~~Class 1 Exempt Permit Type + review~~, as provided under ~~TMC 14.08.010(A)YCC Title 16B (Project Permit Administration)~~. Parties of record to the original permit shall be notified of the revision, though a comment period is not required. A revision for a project within Shoreline jurisdiction shall follow state filing, appeal and approval standards as provided in WAC 173-27-100 (Revisions to Permits).

3) Decision Criteria - Decisions on permit revisions shall be based on the general decision criteria found in section ~~16D-03.04.124~~ (Authorization Decisions – Basis for Action).

~~16D-03.04.1926~~ Non-Conforming Uses and Facilities

Non-conforming uses and facilities are classified as either conforming uses with non-conforming structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types have different review processes and decision criteria, as provided below in subsections 2 and 3.

1) Classification Criteria – There may be situations that do not conform to the standards or regulations of this title. These situations are characterized as:

a) Non-conforming uses. Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by this title are non-conforming uses, and may utilize structures or land areas that are also non-conforming. A non-conforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its non-conforming status, unless a Variance is obtained to extend the length of time, based on documentation showing that an intent to abandon did not exist during the period of discontinuance. Such a Variance request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed 50% of the assessed value, the structure shall not be rebuilt.

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b) Conforming Uses with Non-conforming Structures or Areas are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional or other development standards of this title. Structures or areas in locations approved under a permit shall not be considered non-conforming. Non-conforming outdoor areas that have not been used or maintained for 5 consecutive years shall lose their non-conforming status and may not be reestablished.

c) Any non-conforming structure, area, or use may be maintained with ordinary care according to the provisions in ~~16D.01.05~~ (Applicability) and ~~16D.03.05 (Minor Activities Allowed without a Permit or Exemption) and 16D.03.04.046~~ (Exemptions – Procedural Requirements), and do not require additional review under these Non-Conforming provisions.

2) Process

a) Alterations to conforming uses with non-conforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

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i) Those that do not increase the existing non-conformity and otherwise conform to all other provisions of this title are allowed without additional review under these non-conforming provisions.

ii) Those that increase the non-conformity, including establishing additional square footage within a buffer, are allowed without additional review under these non-conforming provisions; however, a Variance must be obtained for the increased non-conformity.

iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections i) and ii) above.

iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections 1 and 2 above.

v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these non-conforming provisions as a Class 1 non-exempt permit as provisioned in TMC 14.08.010(B) Type II review under YCC Title 16B (Project Permit Administration).

b) Alterations to Non-Conforming Uses

i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these non-conforming provisions.

ii) Alterations to non-conforming uses, including their non-conforming structures or areas that do not qualify under paragraph i) above, shall be processed under these non-conforming provisions as a Class 1 Exempt Permit, as provided under TMC 14.08.010(A) Type II review, as provided under YCC Title 16B (Project Permit Administration).

iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline Environments, a non-conforming use as listed in section ~~16D.10.05.1~~ (Shoreline Land Use Table) may convert to another non-conforming use; although, a non-conforming use shall not change to any use prohibited in section ~~16D.05.05.10~~ (Prohibited Uses).

Conversion from one non-conforming use to another within the Urban and Rural

Shoreline environments shall be processed under these non-conforming provisions as a Class 1 non-exempt permit as provisioned in TMC 14.08.010(B) Type II review, as provided under YCC Title 16B.

3) Decision Criteria

a) Decisions on projects that require review under the non-conforming provisions, as identified under subsection (2) above shall be based on the general decision criteria found in section 16D.03.04.124 (Authorization Decisions – Basis for Action) together with the criteria below.

b) ~~Applications for~~ Applications for -conforming- uses ~~-with -non-conforming -structures -or -~~ areas that are subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that the project meets all of the following criteria:

- i) Using the original location will not place the structure or people in danger of a hazard; and
- ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties; and
- iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

c) Decisions on non-conforming uses:

- i) A non-conforming use may not be altered or expanded in any manner that would bring that use into greater non-conformity; and
- ii) Within Shoreline jurisdiction, ~~Non~~ non-conforming uses shall meet the decision criteria for Conditional Use permits in section 16D.03.04.1621 (3) (Shoreline Conditional Uses); and
- iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline Environments, conversion from one non-conforming use to another may be approved if the replacement use is more conforming with the intent of the applicable Shoreline Environment Policies of Plan 2015 (Policies NS.7.05 through NS.7.22) the Comprehensive Plan, and if the impacts to the shoreline environment from the existing use are reduced by changing the use.

16D.03.27 General Critical Areas Protective Measures

~~The standards below apply to all permits and reviews performed under this title.~~

~~1) Financial guarantees to ensure mitigation, maintenance, and monitoring.~~

~~a) When mitigation required pursuant to a development proposal is not completed prior to the Yakima County's final permit approval, such as final plat approval or final building inspection, the Administrative Official may require the applicant to post a financial guarantee to ensure that the work will be completed. If the development proposal is subject to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees~~

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~~for those features are not required under this provision.~~

~~b) The financial guarantee shall be in the amount of one hundred and twenty five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.~~

~~c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.~~

~~d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five (5) years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.~~

~~e) Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.~~

~~f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County code or any other law.~~

~~g) Any funds recovered pursuant to this Section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow up corrective actions.~~

~~h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.~~

2) Declarative Covenants

~~a) When a development is authorized by a critical areas permit or review, a declarative covenant shall, unless determined not to be necessary by the Administrative Official, be filed with the Yakima County Auditor to inform future owners of the existence of a critical areas decision that runs with the land and contains limits relating to critical areas on the property. The declarative covenant shall read substantially as follows:~~

~~"This declarative covenant is intended to reduce the incidence of unintentional violation of the Critical Areas Ordinance and/or Shoreline Master Program. Please be informed about your property and the laws that apply to it.~~

~~This declarative covenant is provided by Yakima County to the current and future owners of the property described as [enter property description] to inform them that, at the time of this notice, [enter Critical Areas or Shorelines present] existed within or~~

~~adjacent to the property which are protected and regulated by the Yakima County Critical Areas Ordinance and/or Shoreline Master Program. Development has taken place on the property under permit or review number [enter permit file number], which includes requirements that run with the land. Current and future owners should obtain copies of the permit and also inform themselves about the critical areas, and/or Shoreline jurisdiction that exists on the property.~~

~~This declarative covenant may be removed or modified if critical areas conditions change, or if the permit is no longer applicable. Contact the Yakima County Public Services for assistance in doing so."~~

~~b) The declarative covenant shall not be required for a development proposal by a public agency or public or private utility;~~

~~i) Within a recorded easement or right of way;~~

~~ii) Where the agency or utility has been adjudicated the right to an easement or right of way; or~~

~~iii) On the site of a permanent public facility.~~

~~e) The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.~~

~~3) Subdivision Standards—The following standards apply to all permits or reviews under the Subdivision Ordinance (YCC Title 14) that contain critical areas:~~

~~a) All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the Subdivision Ordinance (YCC Title 14) and Zoning Ordinances (YCC Titles 15 and 15A);~~

~~b) Critical areas shall be actively protected through the following:~~

~~i). Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;~~

~~ii) When Geologically Hazardous Areas (excluding Erosion, Oversteepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall within the boundary of a subdivision:~~

~~(1) Said critical areas shall be protected by placing them entirely within a separate critical area tract, or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes may be deemed by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision;~~

~~(2) For those new lots that do contain said critical areas, useable building envelopes (5,000 square feet or more for residential uses) shall be provided on the plat that lie outside said critical areas.~~

~~iii) New lots partially within the floodplain shall provide a usable building envelope~~

~~(5,000 square feet or more for residential uses) outside the floodplain;~~
~~iv) New lots entirely within the floodplain shall be at least one (1) acre in area;~~
~~v) For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the plat that lie outside said critical areas;~~
~~vi) Degraded vegetative buffers shall be restored, or provided with protection measures that will allow them to recover;~~
~~vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat.~~

Chapter ~~16D.05~~⁴
ENFORCEMENT AND PENALTIES

Sections:

~~16D.04.05.01~~ Enforcement Responsibilities Generally

~~16D.04.02 — Enforcement Responsibilities — Chapters 16D.05.20 through 16D.05.72, Flood Hazard Permits~~

~~16D.04.05.03~~ Penalties

~~16D.04.05.01~~ Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or ~~his~~^{their} designee to enforce the provisions of the Shoreline Master Program pertaining to all development within the jurisdiction of this title, ~~except as expressly noted in Section 16D.04.02 below pertaining to flood hazard permits.~~ Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the administrative official or ~~his~~^{their} designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall state the nature of the violation and order all violation activities to stop. The order shall state the corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur. The order shall identify the parties responsible to take the corrective actions mandated in order. —No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the administrative official. Violations of this chapter constitute a public nuisance and ~~Yakima County~~^{the City of XXXXX} may take such actions as are authorized in ~~Yakima County~~^{the City of TOPPENISH ordinance} ~~municipal -code~~ and State statute to abate such nuisances.

~~16D.04.02 — Enforcement Responsibilities — Chapters 16D.05.20 through 16D.05.72, Flood Hazard Permits~~

~~It shall be the duty of the chief building official or his designee to enforce the provisions of Chapters 16D.05.20 through 16D.05.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the chief building official may order any work on such development stopped and the responsible parties to take such actions as required to correct such violation by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the chief building official to proceed with the work.~~

~~16D.04.05.03~~ Penalties

1) Any person, firm, or corporation violating any of the provisions of this Title, or failing to comply therewith, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW or any other remedy provided by law. Any person who violates or fails to comply with any of its requirements shall, upon conviction of a misdemeanor in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this chapter shall be denominated Class I civil infractions. The maximum penalty and default amount for a Class I civil infraction shall be two hundred fifty

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dollars, not including statutory assessments. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.

2) It shall be the affirmative duty of the ~~county~~City prosecutor's office to seek relief under this section for violations of this title.

3) Nothing herein shall prevent the ~~county~~City prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine or imprisonment provided for therein, continuing violations of this title may be enjoined or ordered abated in a civil proceeding for injunction or for abatement. ~~For purposes~~For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or ~~corporation violating~~corporation violating the ~~provisions of this title shall be liable for all costs of such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.~~

5) ~~Nothing in~~Nothing in this Chapter shall be constructed as requiring the ~~County~~City to enforce the prohibitions in this Chapter against all or any properties which may violate the Ordinance. The ~~County~~City has the discretion to enforce and prosecute violations of this ordinance as the ~~County's~~City's resources permit. Exercise of such discretion may result in the enforcement and prosecution of a limited number of violations at any given time. Nothing in this Section or the absence of any similar provision from any other ~~County~~City law shall be constructed to impose a duty upon the ~~County~~City to enforce such other provision of law.

Chapter .05 Shoreline Management

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Article I - Introduction

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Sections:

~~16D.1005.01~~ Intent and Purpose

~~16D.10.02~~ ~~Restriction as Affecting Fair Market Value of Property~~

~~16D.1005.023~~ Shoreline Jurisdiction

~~16D.1005.034~~ Shoreline Environments

Article II General Development Standards

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~~16D.1005.045~~ Shoreline Land Use Table

~~.05.05~~ Prohibited Uses

~~.05.06~~ General Policies and Standards

Article III - Water Dependency Development Standards and Buffer Requirements

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~~.05.07~~ Use Classifications

~~.05.08~~ Water Dependent Uses

~~.05.09~~ Water Related Uses

~~.05.10~~ Water Enjoyment and Non-Water Uses

~~.05.11~~ Vegetive Buffers

Article IV – Shoreline Modification Development Standards

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~~.05.12~~ Roads, Railroads, and Parking

~~.05.13~~ Utility Transmission Lines and Facilities

~~.05.14~~ Shore Stabilization

~~.05.15~~ Dredging and Excavation

~~.05.16~~ Filling

~~.05.17~~ Commercial Mining of Gravels

~~.05.18~~ Reclamation

Article V – Shoreline Use Development Standards

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~~.05.19~~ Forest Practices

~~.05.20~~ Commercial and Community Services

~~.05.21~~ Industrial Activities

~~.05.22~~ Residential

~~.05.23~~ Recreation

- .05.24 Agriculture
- .05.25 Aquaculture
- .05.26 Piers and Docks

Article I - Introduction

~~16D-10.05.01~~ **Purpose and Intent**

The SMP regulations are intended to carry out the responsibilities imposed on ~~Yakima County~~the City of XXXXXX by the Shoreline Management Act (RCW 90.58) and ~~its~~ Administrative Rules (WAC 173-18, WAC 173-20, WAC 173-22, WAC 173-26 and WAC 173-27) insofar as regulations can, and the adoption of these regulations does not remove other responsibilities imposed by the Act. The purpose of the Shoreline Master Program Regulations are to:

- 1) Promote reasonable and appropriate use of the shorelines that will protect the public and private interest; and
- 2) Protect against adverse effects to the public health, the land, its vegetation and wildlife and the waters and their aquatic life within ~~Yakima County~~City of XXXXXX; and
- 3) Protect public rights of navigation; and
- 4) Recognize and protect private property rights consistent with public interest; and
- 5) Maintain or re-create a high quality of environment along the shorelines; and
- 6) Preserve and protect fragile natural resources and culturally significant features; and
- 7) Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and
- 8) Protect ~~public and private~~ properties from ~~adverse effects of~~ improper development in hazardous shorelines areas; and
- 9) Recognize and protect statewide interest; and

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10) Give preference to uses that result in long-term over short-term benefits, ~~and~~ and

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11) Provide for no net loss of ecological functions from both individual permitted development and individual exempt development.

~~16D.10.02~~ — Restriction as Affecting Fair Market Value of Property

~~The restrictions imposed by these regulations shall be considered by the Yakima County Assessor in establishing the fair market value of the property pursuant to RCW 90.58.290.~~

~~16D.10.05.023~~ Shoreline Jurisdiction

Pursuant to the authority of RCW 90.58.030(2)(f) and WAC 173-22-040(2-3), the jurisdictional limits of the Shoreline Master program within ~~Yakima County~~ the City of XXXXXX for areas that are subject to these regulations, are listed below. ~~Yakima County~~ The City of XXXXXX has developed maps to generally depict the extent of Shoreline jurisdictional boundaries for all Shorelines within the ~~county~~ City. These maps are for informational and illustrative purposes only and are not regulatory in nature. Where such maps are not available or do not correspond with physical features on the ground, jurisdictional boundaries shall be controlled by the criteria listed below, WAC 173-22, and the Act itself. It is understood when the maps and the actual physical features do not correspond, the physical features will dictate the extent of the jurisdictional boundaries. It is understood that the actual physical features may change. The physical features will dictate the extent of the Shoreline jurisdictional boundaries. Shoreline jurisdictional area shall include:

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1) Those Shoreline lakes, ponds and stream lengths identified in Appendix B and C of this title.

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2) Subject to Subsection 7 below, wherever the "floodway" has been established by a flood insurance study prepared by the Federal Emergency Management Agency (FEMA), shorelines jurisdiction shall be the floodway plus 200 feet, measured on a horizontal plane, or the 100-year floodplain, whichever is lesser.

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3) Subject to Subsection 7 below, whenever the 100-year floodplain has been identified by a flood insurance study prepared by the Federal Emergency Management Agency but where no "floodway" has been identified, shorelines jurisdiction shall be the 100-year floodplain boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.

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4) Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be 200 feet, measured on a horizontal plane, from the ordinary high-~~w~~ater mark.

5) Where a Channel Migration Zone (CMZ) has been identified, ~~r~~ and extends beyond the jurisdiction established by sub-section (2) above, jurisdiction shall extend to the extent of the CMZ, but not beyond the limits of sub-section (3).

6) Those wetlands and ~~-~~river deltas which are ~~-~~in ~~-~~proximity to ~~-~~and either influence or ~~-~~are influenced

by the Shorelines. This influence includes, but is not limited to, one or more of the following: periodic inundation, location within a floodplain, or hydraulic continuity.

7) Under no circumstances shall shoreline jurisdiction be less than 200 feet, measured on a horizontal plane, from the ordinary high-water mark of the Shoreline water body.

(8) The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

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16D-10.05.034 Shoreline Environments

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The following Shoreline Environments listed below are used as a system of categorizing shoreline areas according to management objectives and the character of the shoreline. **The Shoreline Environments are based on the goals and policies found in the comprehensive plan** ~~(at the time of this update Plan 2015 - Volume 1 - Natural Settings - NS 7 Shorelines, Goals NS7.04 through 7.22).~~ Six (6) environments are hereby established, as listed below. ~~The location and boundaries of the Shoreline Environments are hereby established, as provided in Appendix B and C.~~ It is understood that the actual physical features may change. The physical features shall dictate the extent of the environmental boundaries. These changes are hereby incorporated by reference into this document so that the Environments ~~described in Appendix C~~ will shift with river changes. Shoreline Environments are shown on the map entitled "Shoreline Environment Map of ~~Yakima County~~ City of XXXXXX". This map is for informational and illustrative purposes only and is not regulatory in nature.

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1) Urban Environment: ~~This environment is characterized by high intensity land uses, high land values, major public and private capital investments, and/or few biophysical development limitations where intensive development is desirable or tolerable. The management objective is one of optimum future utilization of land and public investment. In view of the intensity of present and future development and consequent population densities, there is a correspondingly high requirement for open space and access to the water in this environment. The basic principle in an Urban Environment is oriented toward quality of development in harmony with the shoreline. The Urban Environment should ensure optimum utilization of shorelines occurring within urbanized areas by providing for public access, and by managing development so that it enhances and maintains the shorelines for a multiplicity of uses.~~

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2) Rural Environment: ~~This environment is characterized by agricultural and recreational uses, moderate land values, moderate public and private capital investment (roads, utilities, etc.), and/or some biophysical development limitations. The management objectives are to protect agricultural land, maintain open space, and provide for recreational uses compatible with agricultural production.~~

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3) Conservancy Environment: ~~This environment is characterized by very low intensity land uses primarily related to natural resources use and diffuse recreational development, relatively low land values, relatively minor public and private capital investment, and/or relatively major biophysical~~

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development limitations. Management objectives are oriented toward establishing a balance between sustained-yield natural resource utilization and low-density recreational uses in this environment, with restriction of development in hazardous areas.

4) Natural Environment: —This environment is characterized by severe biophysical limitations, presence of some unique natural, historic, or archeologic features intolerant of intensive human use, and/or its value is retained only in its natural condition. Management objectives are oriented toward preserving unique features, restricting activities that may degrade the actual or potential value of this environment, and severely restricting development in hazardous areas.

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5) Urban Conservancy Environment: —This environment is characterized by low intensity land uses primarily related to public access, diffuse recreational development, and relatively major biophysical development limitations. This environment should protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. The Urban Conservancy environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area and that lie in incorporated municipalities, urban growth areas, or commercial or industrial rural areas of more intense development.

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6) Floodway/Channel Migration Zone Environment: —This environment is characterized by deep/fast floodwaters and a shifting channel, and is the most hazardous Shoreline area. The Floodway/Channel Migration Zone environment should protect the water areas, islands and associated overflow channels found within designated floodways, and mapped channel migration areas. This environment acknowledges the river's need to move within parts of its floodplain, and emphasizes the preservation of the natural hydraulic, geologic, and biological functions of the county's City's shorelines that are constrained by severe biophysical limitations.

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Article II – General Development Standards

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16D.10.05.045 Shoreline Land Use Table

Table ~~16D.1005.105~~ lists the uses and activities for each Shoreline Environmental designation that are -allowed by -Substantial- Development -Permit -and/or -Conditional -Use- Permit, or -are prohibited. Such uses shall be processed in accordance with chapter ~~16D.03~~ (Permit Application and Review Procedures). This table does not change those situations of when this title does not apply to a development (~~16D.01.05~~ Applicability), or when a use or activity listed as needing a Substantial Development permit may qualify for an exemption instead (~~16D.03.07~~ Exemptions). Definitions for some uses are provided in chapter ~~16D.02~~. The provisions in Table ~~16D.10.05.1~~ apply to specific common uses and types of development only to the extent they occur within shoreline jurisdiction. Symbols in the table have the following meanings:

- (S) means a Substantial Development Permit is required.
- (C) means a Conditional Use Permit is required.
- (X) means the use is prohibited.
- (N/A) means the entry is not applicable and the entry in the Activity column provides information to redirect the reader to another Activity.

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Table ~~10-105.1~~

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.1926 Non-Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
GENERAL						
Activities listed in 16D.06.10.05.05 Prohibited Uses	X	X	X	X	X	X
AGRICULTURE Also see Section 16D.03.07 for common exemptions.						
Agriculture, including accessory agricultural structures, but excluding grazing.	S	S	C	X	C	S
Grazing, also see special grazing provisions in 16D.01.05(e) (Applicability) and 16D.03.13(2)(b) (Development Authorization) for development standards.	S	S	S	S	S	S
Confinement Feeding Operations (CFO)	X	C	X	X	X	X
Ag. Related Industry (Feed Mills, Processing/ Packing Plants, Storage Facilities, etc.)	C	C	X	X	X	C
AQUACULTURE						
	C	S	C	X	C	C
	C	S	X	X	X	C
Packing & storage	C	S	X	X	X	C

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FOREST PRACTICES -UNDER STATE PERMIT Also see special forest practices provisions in section 16D.01.05 for applicability, section 16D.02 for definitions, 16D.03.07 for exemptions, and section 16D.03.13(2)(a) for development standards.						
All federal forest practices or non-federal forest practices meeting the criteria below: 1. harvest/treat at least 5 acres of forestland, or supporting such an operation, 2. all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest) 3. activities are not associated with a Conversion Option Harvest 4. approved under a WDNR Forest Practices Permit 5. not associated with a harvest under a Class IV-General application to convert forest land to non-forestry use	S	S	S	C	S	S
Non-federal forest practices NOT meeting criteria (1), (2), or (3) above	C	C	C	C	C	C

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Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.1926 Non- Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
Non-federal forest practices NOT meeting criteria (4) above (Class 1 forest practices, activities not requiring WDNR review, etc.) shall be reviewed as separate uses or activities.	N/A	N/A	N/A	N/A	N/A	N/A
Non-federal forest practices NOT meeting criteria (5) above shall be reviewed as the new proposed use	N/A	N/A	N/A	N/A	N/A	N/A
MINING						
Surface Mining	C	C	C	X	X	C
Underground Mining	X	X	X	X	X	X
Mining for habitat restoration	S	S	S	S	S	S
ARCHEOLOGICAL						
Interpretive center	S	C	C	X	X	S
Restoration of historic structures	S	S	C	C	C	S
Archeological excavation	C	C	C	C	C	C
RESIDENTIAL USE Also see Section 16D.03.07 for common exemptions.						
Cabin (see definition; 800 sq. ft.) or Single Improved RV Site where other single family residences are not permitted.	X	X	X	X	X	S

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Single-Family Residence, including: - Family Home Services - Accessory Apartment - Mobile Home for Aged/Infirm Relative (or equivalent uses listed in the zoning ordinance)	S	S	S	X	X	X
Duplex	S	S	X	X	X	X
Multi-family	C	X	X	X	X	X
Rooming & boarding houses	C	X	X	X	X	X
Fraternity or sorority houses	C	X	X	X	X	X
Manufactured Home Park or subdivision outside floodplain	C	X	X	X	X	X
Manufactured Home Park or subdivision w/in Floodplain	X	X	X	X	X	X
RV park with units remaining year-round – review as mobile home park	N/A	N/A	N/A	N/A	N/A	N/A
RV park with units NOT remaining year-round – see recreational use section, Moderate Intensity.	N/A	N/A	N/A	N/A	N/A	N/A

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Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D .01.05 (Applicability) to see if this Title applies to the project. Review section 16D .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D .03.1926 Non-Conforming Uses and Facilities.						
Houseboats & over-water residential uses	X	X	X	X	X	X
COMMERCIAL AND COMMUNITY SERVICE USES						
Large Commercial uses (more than 1/2 acre of use area) of a Water Oriented nature, including commercial boating facilities, marinas, and extended moorings. Boat Launches shall be treated as a Recreational use.	C	C	C	X	X	C
Small Commercial uses (1/2 acre or less of use area) of a Water Oriented nature	S	S	C	X	X	S
Non-Water Oriented Commercial Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from OHWM or wetland edge by either a public right of way or 100'+ of a separate parcel	C	C	C	X	X	C
Non-Water Oriented Uses in a mixed-use project that includes a Water Dependant Dependent Commercial, Industrial, Aquaculture, or Recreational Use	C	C	C	X	X	C

Events and temporary uses involving public interest (see definition) that do not impair the shoreline environment Note: Definition to be added to Administrative Sections	C	C	C	C	C	C
INDUSTRIAL						
Water Oriented Uses	C	C	X	X	X	X
Non-Water Oriented Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from the OHWM or wetland edge by either a public right of way or 100' + of a separate parcel	C	C	X	X	X	X
Non-Water Oriented Uses in a mixed-use project that includes a Water Dependant Dependent Commercial, Industrial, Aquaculture, or Recreational Use	C	C	X	X	X	X
RECREATION Also see 16D.01.05 (Applicability) and 16D.01.07 (Exemptions) for uses that may not require permits or review.						
Commercial components of the use that are not explicitly related to the recreation operation must also conform to the Commercial section of this table.	N/A	N/A	N/A	N/A	N/A	N/A
Indoor Recreation – Reviewed as	N/A	N/A	N/A	N/A	N/A	N/A

Hi-Intensity Outdoor Recreation of a Water Oriented nature (urban area parks, white water parks, etc.)	S	C	C	X	C	S
Moderate-Intensity Outdoor Recreation of a Water Oriented nature (use areas with minor structures and improvements, such as camp grounds, picnic facilities, hiking trails, swimming beaches, fishing sites, nature/ history interpretive centers); RV park/ camping with units NOT remaining year- round is included in this category (also see residential RV uses)	S	S	S	X	C	S
Low-Intensity Outdoor Recreation of a Water Oriented nature (unimproved use areas, such as hiking or nature trails, primitive camping areas,); an unimproved Personal Camping and Recreation Site is included in this category.	S	S	S	C	S	S
Very-Low-Intensity Recreation (wildlife viewing, scenic vistas, fishing, hunting, rafting, walking, etc.) See section- 16D .01.05 (Applicability) for activities not subject to this title.	N/A	N/A	N/A	N/A	N/A	N/A
Events and temporary uses involving public interest (see definition) which may interfere with normal public use, that do not impair the shoreline environment.	C	C	C	C	C	C
TRANSPORTATION & PARKING						
Access roads serving permitted uses	S	S	S	X	C	S
Highways & freeways	C	C	C	C	C	C
Railways	C	C	C	X	C	C
Transportation maintenance facilities	C	C	C	X	X	C

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Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D .01.05 (Applicability) to see if this Title applies to the project. Review section 16D .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D .03. 1926 Non- Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
Parking for authorized use – reviewed with authorized use.	N/A	N/A	N/A	N/A	N/A	N/A
Park and Ride lots and similar stand alone parking facilities	X	X	X	X	X	X
UTILITIES						
Utility Services accessory to individual projects undergoing Shoreline review – review w/ project	N/A	N/A	N/A	N/A	N/A	N/A
Utility services to projects outside Shoreline jurisdiction	S	S	S	C	C	S
Land/air/water monitoring station.	S	S	S	S	S	S
Utility Transmission Lines, except as noted below.						
Utility Transmission Lines on shorelands, where no other feasible option is available.	C	C	C	C	C	C
Production and Processing Facilities of a Water Oriented nature, including power generation, water and wastewater treatment facilities.	C	C	C	C	C	C
Production and Processing Facilities of a Non-Water Oriented nature, except as noted below.	X	X	X	X	X	X

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Production and Processing facilities of a Non- Water Oriented nature, where no other feasible option is available.	C	C	C	C	C	C
Storage/collection of garbage cans/dumpsters for individual use	S	S	S	S	S	S
Solid waste transfer station/drop box	C	C	C	X	X	X
Storage/disposal of solid waste, including landfills, sewage sludge, and agricultural waste. For existing uses, see section 16D.03.2619 Non-Conforming Uses and Facilities.	X	X	X	X	X	X
SIGNS – Note: signs must also conform to the local sign ordinance						
Blinking or revolving signs	X	X	X	X	X	X
Signs obstructing views of shorelines and scenic vistas from public rights of way	X	X	X	X	X	X
On-premise for authorized use.	S	S	S	S	S	S
Off-premise (except temporary and information signs)	S	X	X	X	X	X
Temporary signs (election signs; sale, rental, or lease signs on real estate; etc.) are not	N/A	N/A	N/A	N/A	N/A	N/A

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Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D .01.05 (Applicability) to see if this Title applies to the project. Review section 16D .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D .03.1926 Non- Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
considered development.						
Information signs (directional, landmark, trail marker, etc.)	S	S	S	S	S	S
IN-STREAM STRUCTURES Also see 16D.01.07 (Exemptions) for uses that may not require permits.						
In-stream elements for shore stabilization, roads/bridges, habitat restoration, piers/docks/marinas, and fill are reviewed as those activities.	N/A	N/A	N/A	N/A	N/A	N/A
Construction that does not impound water (but may include stream bed manipulation); including whitewater recreation structures and flow gauging stations	C	C	X	X	X	X
Construction that impounds water or increases the height of impounded water	C	C	C	C	X	C
PIERS AND DOCKS Also see section 16D.03.07 Exemptions for uses that may not require a permit.						

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Pier/dock (including for over-water structures), except for instances below	X	X	X	X	X	X
Pier/dock for Water Dependent Commercial, Industrial, Aquaculture, or Recreational Use; or public access; or a single-family residence facility to access watercraft	S	S	C	X	X	S
DREDGING						
Dredging (including obtaining minerals, aggregate, or landfill material), except for instances below	X	X	X	X	X	X
Dredging for: - Water Dependent use - public access	C	C	C	C	C	C
Dredging to modify channels or basins (excluding maintenance) for existing navigation uses	S	S	S	X	X	S
Dredging for habitat restoration	S	S	S	S	S	S
FILLING & DREDGE MATERIAL DISPOSAL						
Fill within the OHWM, except for instances below	X	X	X	X	X	X
Fill within the OHWM for: - Water Dependent use - public access - expansion of existing transportation system of state-wide significance	C	C	C	X	X	C

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Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D .01.05 (Applicability) to see if this Title applies to the project. Review section 16D .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D .03.1926 Non- Conforming Uses and Facilities.						
- dredge material placement for habitat restoration project						
- beaches						
Fill (non-dredged) within the OHWM for habitat restoration	S	S	S	S	S	S
Fill outside the OHWM, except for instances below	X	X	X	X	X	X
Fill outside the OHWM for site development of an approved use	S	S	S	C	C	S
SHORE STABILIZATION Also see section 16D.03.07 Exemptions, for activities that may not require permits.						
Non-Structural Stabilization Measures (revegetation, wood debris placement, sediment supplementation, bio-engineering, etc.). Also see section- 16D .03.07(15) for the restoration exemption.	S	S	S	S	S	S
On-Land Stabilization Structures, except for instances below	X	X	X	X	X	X

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On-Land Stabilization Structures (bulkheads, retaining walls, dikes, levees, rip-rap, etc.) demonstrating necessity per 16D.06.19.05.14 (11)(e). Also see section 16D.03.07 for residential and bulkhead exemptions.	C	C	C	C	C	C
In-Water Stabilization Structures, except for instances below	X	X	X	X	X	X
In-Water Stabilization Structures (breakwaters, jetties, groins, weirs, bank barbs, etc.) demonstrating necessity per 16D.06.19.05.14 (11)(e) for: - Water Dependent use - public access - specific public purposes - in support of bank stabilization	C	C	C	C	C	C
In-Water Stabilization Structures for habitat restoration demonstrating necessity per 16D.06.19.05.14 (11)(e). Also see section 16D.03.07 (15) for the restoration exemption.	S	S	S	S	S	S

Chapter 16D.06

FISH AND WILDLIFE HABITAT AND THE STREAM-CORRIDOR SYSTEM

Sections:

~~16D.06.01 — Purpose and Intent~~

~~16D.06.02 — Protection Approach~~

Introduction

Designation and Mapping

~~16D.06.03 — Hydrologically Related Critical Area Features~~

~~16D.06.05 — Functional Properties~~

~~16D.06.06 — Stream, Lake and Pond Typing System~~

~~16D.06.07 — Wetland Rating System~~

~~16D.06.08 — Maps~~

~~16D.06.10 — Prohibited Uses~~

~~General Development Standards~~~~16D.06.11 — General Policies and Standards~~

~~Water Dependency Development Standards and Buffer Requirements~~

~~16D.06.12 — Use Classifications~~

~~16D.06.13 — Water-dependent Uses~~

~~16D.06.14 — Water-related Uses~~

~~16D.06.15 — Water enjoyment uses and Non-water Oriented Uses~~

~~16D.06.16 — Vegetative Buffers~~

Land Modification Development Standards

~~16D.06.17 — Roads, Railroads and Parking~~

~~16D.06.18 — Utility Transmission Lines~~

~~16D.06.19 — Shore Stabilization~~

~~16D.06.20 — Dredging and Excavation~~

~~16D.06.21 — Filling~~

~~16D.06.22 — Commercial Mining of Gravels~~

~~16D.06.23 — Reclamation~~

Shoreline Use Development Standards

~~16D.06.24 — Forest Practices~~

~~16D.06.25 — Commercial and Commercial Services~~

~~16D.06.26 — Industrial Activities~~

~~16D.06.27 — Residential~~

~~16D.06.28 — Recreation~~
~~16D.06.29 — Agriculture~~
~~16D.06.30 — Aquaculture~~
~~16D.06.31 — Piers and Docks~~

~~INTRODUCTION~~

~~16D.06.01 — Purpose and Intent~~

~~1) The shorelines of Yakima County include stream corridor systems, hydrologically related critical areas, streams, lakes, ponds, wetlands, and associated uplands which are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:~~

- ~~a) Meet the requirements of the Shoreline Management Act (RCW 90.58.020), to protect against adverse impacts to the land, its vegetation and wildlife, and the waters of the state and their aquatic life, and to protect the ecosystem-wide processes and ecological functions Shoreline jurisdiction;~~
- ~~b) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat conservation areas, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish applicable to Shoreline jurisdiction~~
- ~~c) Meet eligibility requirements of the National Flood Insurance Program (NFIP).~~

~~2) The guidelines, policies, and standards of this chapter are intended to:~~

- ~~a) Plan for and regulate necessary projects, development, and uses within jurisdiction of the Yakima County Regional SMP;~~
- ~~b) Prevent further degradation in the quantity and quality of surface and subsurface waters;~~
- ~~c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;~~
- ~~d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;~~
- ~~e) Provide a zero net loss of natural wetlands functions and values together with, a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;~~
- ~~f) Establish measures to protect streams, lakes, ponds, and wetlands under Shoreline jurisdiction that are at least as protective as the measures applying outside Shoreline jurisdiction as required by RCW 90.58.030 (Finding—Intent—2003 c 321);~~
- ~~g) Recognize that, based on WAC 365-190-080(5) (Fish and Wildlife Habitat Conservation Areas) wildlife-habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important;~~

~~16D.06.02 Protection Approach~~

~~1) To maintain viable populations of fish and wildlife species, there must be adequate environmental~~

conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include fragmentation, the presence of essential resources such as food, water, nest building materials, the complexity of the environment, and the presence or absence of predator species and diseases. As a method of linking large habitat areas, migration corridors offer a means by which to connect publicly protected lands and other intact habitat areas.

Riparian wildlife habitat protection in 3 parts:

- a) Protect habitat for aquatic (in water) species through stream, lake, pond and wetland standards;
- b) Protect habitat for riparian (near water) species through stream, lake, pond, and wetland standards and buffer requirements;
- c) Protect habitat for upland species using the protection measures of Chapter 16D.11.

2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity. The protection of Larch mountain salamander (*Plethodon larselli*) (State Sensitive, Federal Species of Concern) and Spotted Owl (*Strix occidentalis*) (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.

3) To accomplish upland wildlife protection on private lands, Yakima County performed an assessment to map wildlife habitat. Only a small percentage of the mapped area is within private ownership and that is largely in remote areas of forest and rangeland. Consequently, part of Yakima County's approach to protect upland wildlife on private land is to rely on the large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and Agriculture (40 acre minimum) zoning districts.

4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. Consequently, Yakima County's approach to protect wildlife migration corridors and riparian habitat is to rely on the protection measures for stream corridors, wetlands, in Shoreline jurisdiction, where applicable. Native upland plant communities adjacent to riparian areas in Yakima County are also high quality wildlife habitat supporting significant native wildlife assemblages. Other upland plant communities consisting of mixes of native and introduced species also support diverse wildlife populations. The goals, policies, shoreline environments and use regulations in this SMP are intended to manage these areas, where they occur within jurisdiction of this shoreline master program, to assure no net loss of ecological function, including existing wildlife habitat and populations. This purpose is complimentary to additional provisions in Chapter 16D.11, Upland Habitat Conservation Areas, which address this Critical Area category, identified in the Growth Management Act (RCW 36.70A.172).

5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards for rivers, streams, lakes, and the associated wetlands of these shorelines, within jurisdiction of the Yakima County

~~Regional SMP. These standards are derived from the requirements of the SMP Guidelines, at WAC 173-26-201 and subsequent sections, and wildlife habitat conservation areas pursuant to the Growth Management Act, habitat for listed state and federal threatened, endangered, and sensitive species was assessed and incorporated for upland species. Consequently, Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is outlined in Section 16D.11.~~

~~DESIGNATION AND MAPPING~~

~~16D.06.03 — Hydrologically Related Critical Area Features~~

~~The stream corridor and other hydrologically related critical areas include one or more of the following features:~~

~~1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard areas are those identified by the Federal Insurance Administration in the Flood Insurance Study for Yakima County which, together with accompanying Flood Insurance Maps, is hereby adopted by reference and declared to be a part of this title as set forth in Chapters~~

~~16D.05.20 through 16D.05.72;~~

~~2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the Ordinary High Water Mark;~~

~~3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-made lakes and ponds created within a stream channel designated under (2) above;~~

~~4) All wetlands, that meet the definition found in Section 16D.02.425, as required by WAC 365-190-080(1), and as designated in section 16D.07.02(1) of the wetland chapter;~~

~~5) Where specifically cited, any flood-prone area not included in a designated floodway and floodplain but indicated as flood-prone by U.S. Soil Conservation Service soil survey data or geologic evidence developed through professional geologists or engineers;~~

~~6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream channel, lake, or pond, designated in this section or from the edge of a wetland designated in this section according to the distances set forth in Section 16D.06.16 (Vegetative Buffers);~~

~~7) Lakes and ponds meeting the designation criteria in the Shoreline Management Act (RCW 90.58-030) listed in Appendix B.~~

~~16D.06.05 — Functional Properties~~

~~1) Streams, lakes and ponds and wetlands, require a sufficient riparian area to support one or more of the following functional properties:~~

~~a) Streambank and shore stabilization;~~

~~b) Providing sufficient shade through canopy cover to maintain water temperatures at optimum levels and to support fish habitat;~~

- c) Moderating the impact of stormwater and meltwater runoff;
- d) Filtering solids, nutrients, and harmful substances;
- e) Surface erosion prevention;
- f) Providing and maintaining migratory corridors for wildlife;g) Supporting a diversity of wildlife habitat;
- h) Providing floodplain functions noted below;
- i) ——— Contributing woody debris and organic matter to the aquatic environment;
- j) ——— Providing altered climatic conditions different from upland areas.

2) Stream channels generally support one or more of the following functional properties:

- a) Groundwater recharge and/or discharge;
- b) Water transport;
- c) Sediment transport and/or storage;
- d) Biogeochemical functions (see lakes, ponds and wetland functions below);
- e) Channel migration and creation of a dynamic habitat mosaic;
- f) ——— Food web and habitat functions.

3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or lesser degree.

Wetlands are often located along the margins of lakes and ponds, which often mixes the functions between the two. Lakes, ponds and wetlands generally provide one or more of the following functional properties:

- a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention and transformation;
- b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
- c) Food web and fish and wildlife habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.

4) Floodplains generally provide one or more of the following functional properties:

- a) Floodwater storage and passage, including the movement of high velocity flood waters;
- b) Sediment storage and recruitment;
- c) Food web and habitat functions;
- d) Nutrient sink and/or source;
- e) Groundwater recharge and/or discharge.

5) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger areas which may not be achievable due to existing development and construction constraints. In these instances, adjustments to the minimum standards to accommodate such constraints may be necessary. However, a reduction of standards impairs the hydrologically related critical area's ability to support some functional properties. Reductions of standards should be offset by enhancement, restoration or preservation measures which replace lost functions or strengthen other functional properties if replacement of the lost functions is not possible.

16D.06.07 — Wetland Rating System

Wetlands within Yakima County are defined in Section 16D.02.425 and are shown on the data maps referenced in Section 16D.06.08 (Maps). Most, but not all, of the wetlands within Yakima County occur near streams. All wetlands deserve a standard of protection, through the use of vegetative buffers, that is directly related to their contribution to the functional properties listed in Section 16D.06.05 (Functional Properties) and section 16D.07.04 (Wetland Functions and Rating). For regulatory purposes, wetlands are classified into four categories according to the Wetland Rating System found in section 16D.07.04(2) (Wetland Functions and Rating) of the wetland chapter.

~~16D06.08——Maps~~

~~Shorelines of the state as well as certain fish and wildlife habitat and hydrologically related critical areas have been inventoried and are depicted on a series of paper and electronic maps maintained at the Yakima County Public Services Department. The best available graphic depiction of critical areas within the county will be used and continuously updated as reliable data becomes available. Maps may be both regulatory and non-regulatory in nature as described below:~~

~~1) Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:~~

~~a) Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.~~

~~2) Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site specific variations in reconnaissance level data, more detailed information developed at the site specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather the physical characteristics that exist “on the ground” define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following;~~

~~a) Wetlands;~~

~~b) Streams;~~

~~c) Channel migration zone;~~

~~d) Species and Habitats of Local Importance—Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. Habitats of local importance currently include:~~

~~i)——Type 2 Streams, lakes and/or ponds listed in Appendix A and described in section 16D.06.06(2) above.~~

~~e) Upland Wildlife Habitat Analysis Map;~~

~~3) Other information sources—these are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of critical areas, importance or ranking of critical areas functions, or hazard or risk associated with critical areas. These information sources include, but are not limited to:~~

- ~~a) Comprehensive Flood Hazard Management Plans and associated studies;~~
- ~~b) Soil Survey of Yakima County;~~
- ~~c) Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the US Forest Service;~~
- ~~d) Surficial Geologic Maps; e) Historic and Current Aerial Photo Series;~~
- ~~f) Geohydraulic studies—geologic cross sections showing aquifers and confining units.~~

GENERAL DEVELOPMENT STANDARDS

~~16D.06.05.0510~~ **Prohibited Uses**

The following uses -and activities are- prohibited within ~~shoreline jurisdiction~~- ~~designated hydrologically-related critical area~~:

- 1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety; and
- 2) Confinement feeding operations including livestock feedlots and dairy confinement areas; and
- 3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel; and
- 4) The draining or filling of a wetland, ~~lake or pond~~, except as provided for in Section ~~16D.06.21.05.16~~ (Filling); and
- 5) The removal and transport of material for fill outside of the stream corridor; and
- 6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities; and
- 7) Solid waste disposal sites; and
- 8) Automobile wrecking yards; and
- 9) Fill for the sole purpose of increasing land area within the shorelines; and
- ~~10) Those uses located within the floodway fringe that are listed in 16D.05.32.020 (new and expanded mobile or manufactured home parks);~~
- ~~11) Those uses located within the floodway that are listed in 16D.05.36.020 (dwellings, filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any use causing flood impacts.);~~

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~~12.10~~) Within Shoreline jurisdiction, those uses not allowed in particular shoreline environments as provided in ~~section Table 16D.10.05.1~~ (Shoreline Land Use Table).

~~16D.056.0611~~ **General Policies and Standards**

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The following policies and standards shall apply to any development, construction, or use carried out within ~~the City's shoreline jurisdictions, a designated hydrologically related critical area:~~

1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.

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2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the ~~stream corridor~~Shoreline designation shall be disturbed to the minimum extent possible.

3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be disturbed to the minimum extent possible.

4) Projects within the ~~stream corridor~~Shoreline designation shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate ~~S~~state and/or ~~F~~federal agency may be considered.

5) **Stormwater and Erosion Control.** Developments that obtain a stormwater permit approved by a local, state, or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the requirements below.

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a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.

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b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction, and movement unless suitable protective measures are used to prevent erosion.

c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.

d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.

e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian

vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.

f) ~~_____~~ Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.

6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.

7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.

9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.

10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.

11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.

12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.

~~13~~13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.

~~14~~14) ~~Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.~~

~~15~~15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in section ~~16D~~.03.10 (Mitigation Requirements).

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~~4616~~ Development shall not obstruct, cut off, or isolate stream corridor features.

~~4717~~ Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.

~~4818~~ If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify the City of XXXXXX-Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian Tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).

~~4919~~ The provisions of Chapter 16D.05-20 through 16D.05.72 of this title-CITATION (Flood Damage Prevention) and CITATION (Frequently Flooded Areas) shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

~~2020~~ Any ~~portion of the vegetative buffer temporarily damaged or disturbed as a result because~~ of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in section 16D.06.23-05.18 (Reclamation).

~~21) Projects located within the floodway must meet the requirements of 16D.05.36.010 (Floodway Permitted Uses).~~

~~22) Projects within a floodplain must meet the requirements of section 16D.05.28. (Flood-Hazard Protection Standards) and 16D.05.32 (Floodway Fringe Uses).~~

~~2321~~ Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed to ensure that the in light of the following:

~~a) The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and~~

~~b) The conversion will restore and/or enhance the functional properties outlined in Section 16D.06.05 (Functional Properties).~~

~~2422) Additional General Shoreline Standards. The requirements below shall apply to all activities within Shoreline jurisdiction.~~

~~a) 22-~~ Individual projects or actions that, if continued as a pattern, would accumulatively result in the degradation or impairment of the Shoreline environment, shall be avoided.

~~b) 23-~~ Individual projects or actions shall provide for no net loss of Shoreline ecological functions.

~~24c)~~ Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

~~25d)~~ Outdoor advertising signs must conform to size, spacing and lighting provisions of the

Washington State Scenic Vistas Act of 1971, where applicable.

~~Yakima County Regional~~

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Effective February 25, 2010

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~~26e)~~ There shall be a thirty-five (35) foot maximum building height for all structures, except that utility towers and poles, dams, concrete and asphalt batching plants, water treatment towers, wastewater treatment facilities and bridges are not required to meet this standard, and specific height limitations for residential structures are as follows:

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i) ~~_____~~ 25 feet above average grade level in the conservancy environment.

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ii) 20 feet above average grade level in the natural environment.

iii) 25 feet above average grade level in the urban conservancy environment.

iv) 20 feet above average grade level in the floodway/channel migration zone.

f) ~~_____~~ New development within Shoreline jurisdiction shall be located and designed to:

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i) ~~_____~~ avoid the need for future shore stabilization, to the extent feasible.

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ii) avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

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iii) assure that subdivision lots created will not require shore stabilization in order for reasonable development to occur. The standards should be accomplished using geotechnical analysis of the site and shoreline characteristics, as provided in section

~~16D.06.19(11).05.14(11)~~ (Additional Shoreline Standards for Shore Stabilization);

iv) setback new development on steep slopes or bluffs sufficiently to ensure that shore stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, as provided in section

~~16D.06.19.05.14(11)~~ (Additional Shoreline Standards for Shore Stabilization).

v) New development that would require shore stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

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Article III - WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

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16D.0605.0712 Use Classifications

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in ~~16D.06.13-.05.08~~ through ~~16D.06.15-05.10~~ except for those listed in Section ~~16D.03.025~~ (Minor Activities Allowed without a Permit or Exemption):

1) Water Oriented Uses are one of the following three (3) categories of uses:

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a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason

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of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.

b) A ~~W~~water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.

c) A Water enjoyment use is a recreational or other use that facilitates public access within Shoreline jurisdiction as a primary characteristic of the use, or provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use; and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. Within Shoreline jurisdiction the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment in order to qualify as a water-enjoyment use within Shoreline jurisdiction. Examples include recreational uses orientated to the Shorelines water features, and restaurants with water viewing.

2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

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~~16D.06.05.0813~~ **Water-dependent Uses**

The following provisions shall apply to water-dependent uses:

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1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.

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2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section ~~16D.06.16.05.11~~ (Vegetative Buffers).

3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

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~~16D.06.05.09.14~~ **Water-related Uses**

The following provisions shall apply to the water-related uses:

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1) Structures and use areas shall be located as far landward from the ordinary high-water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.

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2) Structures and use areas shall not be located within the vegetative buffer specified in Section ~~16D.06.16.05.11~~ (Vegetative Buffers) except where existing development or the requirements

associated with the use make such a location unavoidable.

16D.06.05.10-15 Water-enjoyment and Non-water Oriented Uses

The following provisions shall apply to water enjoyment and non-water-oriented uses:

- 1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section 16D.06.16.05.11 (Vegetative Buffers).
- 2) Construction ~~abutting the vegetative buffer specified in Section 16D.06.16.05.11~~ (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

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16D.06.05.11-16 Vegetative Buffers

Establishment. There is hereby established a system of vegetative buffers that are necessary to protect the ecological functions and values of shorelines ~~and certain hydrologically related critical areas including wetlands~~. The vegetative buffer for shoreline streams and lakes shall be 100 feet. For wetlands, based on a review of the best available science, buffers are listed in table 6-1.

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- 1) Vegetative buffers shall be measured from the Ordinary High ~~Water Mark (OHWM) for streams, lakes, and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the wetland buffer shall be determined according to the wetland type specified in Table 6-1.~~
- 2) Buffer width may be reduced through the Variance ~~(16D.03.22)~~ permit process.
- 3) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

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Table 6-1

Type 1 Wetlands	Type 2 Wetlands	Type 3 Wetlands	Type 4 Wetlands
200'	100'	75'	50'

~~LAND Article IV Shoreline Modification Standards~~**MODIFICATION DEVELOPMENT STANDARDS**

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~~16D-06.05.12-17~~ **Roads, Railroads, and Parking**

The following provisions shall apply to the location and construction of roads, railroads, and parking within shorelines.

1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.

a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.

b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.

c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.

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2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor.

3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone.

4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.

5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment, and woody debris.

6) Natural stream channels and drainage ways shall be preserved through the use of bridges for crossings, unless the use of culverts is demonstrated to be the only technically feasible means for crossing. The use of bridges shall be the preferred means to preserve natural streams and drainageways. Where bridges are not feasible, large, natural bottom culverts, multi-plate pipes and bottomless arches shall be used.

7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.

8) Where fish, amphibian or other wildlife passage is present, culverts shall be designed and constructed to specifications provided through the Washington State Aquatic Habitat Guidelines or a comparable source of expertise.

9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water.

10) Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters.11) Roads and bridges within floodways must meet the requirements of the City of XXXXXX XMC FLOOD HAZARD MITIGATION CODE HERE section 16D.05.36.010 subsection (7) and (2).

~~12) Additional Shoreline Standards for Roads, Railroads and Parking — the standards in this section only apply to new uses within Shoreline jurisdiction.~~

~~11a)~~ Parking areas shall be located upland of the areas they serve.

~~12b)~~ Owners of two or more adjoining uses, structures or parcels of land may utilize jointly the same parking area when the hours of operation do not overlap.

~~13c)~~ A Conditional Use Permit for roads, railroads or parking areas must demonstrate through and engineering studies that a shoreline location is the most feasible of the available options.

~~16D.06.05.13-18~~ **Utility Transmission Lines and Facilities**

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor.

~~a)~~ Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.

~~b) The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16D.06.05 (Functional Properties) of this title.~~

2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor.

3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.

4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings.

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5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical.

6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed.

7) Underground utility transmission lines shall be constructed so they do not alter, intercept, or dewater groundwater patterns that support streams, wetlands and hyporheic flow.

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8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of ~~16D-05.28.010(b) (re: infiltration or discharge into or out of the system)~~ FLOOD HAZARD CITATION HERE.

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9) Utility- transmission- lines -within- the Floodway and the Floodway- Fringe- shall -meet- the -standards -of Flood Hazard Citation of City Code~~16D-05.32.010 (2)~~.

~~10) Utility transmission lines within the Floodway shall meet the standards of 16D-05.36.010(2).~~

~~101) Additional Shoreline Standards for Utility Transmission Lines and Facilities-~~

The requirements below shall apply to all utility transmission lines and facilities within Shoreline jurisdiction. Utility services to individual projects undergoing Shoreline review, including those where the primary use may be in a different Shoreline environment than the utility service shall not require separate Substantial Development Permits for utility service installations, but are subject to all of the provisions in .05.1316D-06.18 (Utility Transmission Lines and Facilities), except those listed below. Utility service to projects outside Shoreline jurisdiction are subject to normal Shoreline permitting, and are subject to all of the provisions in ~~16D-06.18~~ .05.13 (Utility Transmission Lines and Facilities), except those listed below.

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a) Where feasible utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive.

b) New utility facilities shall be designed and located to preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses, especially recreation, residential and public access.

c) Expansion, updating, and maintenance of existing facilities is allowed but shall be designed to be located to avoid adverse impacts to shoreline resources as much as possible.

d) Permit applications shall meet the following submittal review standards:

e) Applications shall submit studies (social, economic, environmental, engineering, etc.) to demonstrate that a shoreline location is the most feasible of the available options.

f) ~~_____~~ Applications to locate transmission lines shall submit a location plan that shows existing utility routes in the vicinity of the proposed transmission line. Failure of utility lines to follow existing routes, where feasible, shall cause denial of the application.

g) Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of the application.

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~~16D-06.05.14.19~~ **Shore Stabilization**

The following provisions shall apply to shore stabilization projects:

- 1) Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly ~~represents a threat to existing property, structures, or facilities, and which~~ stabilization will not jeopardize other upstream or downstream properties.
- 2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.
- 3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property.
- 4) The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section ~~16D-06-24.05.16~~ (Filling).
- 5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance, and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects.
- 6) Stream bank and lakeshore protection shall be accomplished using bioengineered (biotechnical) designs employing living plant materials as primary structural components of resistance to erosion and mass wasting, unless a report prepared by a qualified engineer experienced in soil bioengineering (biotechnical) and shoreline protection demonstrates that conventional structural armoring is the only feasible means of stabilizing the subject stream bank or lakeshore.
- 7) Applications to construct or enlarge dikes or levees shall meet the requirements of ~~16D-05-36.010(6)~~ FLOOD HAZARD CODE CITATION HERE.
- 8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore.
- 9) Breakwaters shall be constructed of floating or open pile designs rather than fill, riprap, or other solid construction methods.
- 10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

~~11) Additional Shoreline Standards for Shore Stabilization—The requirements below shall apply to all shore stabilization activities within Shoreline jurisdiction.~~

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~~11a)~~ Where feasible, dikes and levees shall be located outside of the floodway or channel migration zone of the river or stream in order to minimize any attendant increase in water stage and stream flow velocity over existing conditions.

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~~12b)~~ Rip-rapping and other shore stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics.

~~c) Where a geotechnical analysis or report is required, it shall meet the provisions of 16D.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).~~

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~~d) When structural flood hazard reduction and shore stabilization measures are necessary, they shall be located and designed to meet the provisions of 16D.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).~~

~~13a)~~ Demonstration of necessity. New structural shore stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

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i) ~~_____~~ New or enlarged structural stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization.

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ii) Erosion control structures in support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

(1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage; and

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(2) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and

(3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.

iii) Erosion control structures in support of water-dependent development when all of the conditions below apply:

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(1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage; and

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(2) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and

(3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

~~14f).~~ —Erosion control structures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to the Model Toxics Control Act (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.

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~~15g)~~ An existing shore stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. For purposes of this section standards on shore stabilization measures, "replacement" means the construction of a new structure to perform a shore stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shore stabilization measures shall be considered new structures under paragraph (g) above.

i) ~~4).~~ —Replacement walls or bulkheads shall not encroach waterward of the ordinary high- water mark or existing structure unless the residence was occupied prior to January 1,

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1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure.

ii) Soft shore ~~-stabilization~~ measures that ~~-provide~~ restoration of ~~-shoreline~~ ecological functions may be permitted waterward of the ordinary high-water mark.

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~~16D.06.05.15-20~~ **Dredging and Excavation**

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The following ~~-provisions-~~ shall ~~-apply-~~ to ~~-dredging -and-~~ ~~-excavation -within-~~ a ~~-designated~~ hydrologically related critical area:

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1) ~~4)~~ Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement; maintenance or construction of water- dependent uses.

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2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.

3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.

4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.

5) Entries across ~~-shore -and-~~ ~~-wetland~~ edges to ~~-accomplish~~ dredging or ~~-excavation~~ shall ~~-be~~ confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage.

6) Dredging ~~-and-~~ ~~-excavation-~~ shall ~~-be-~~ ~~-scheduled -at-~~ ~~-times-~~ having ~~-the -least -impact-~~ to fish spawning, nesting patterns, and other identified natural processes.

7) Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

~~8) Additional Shoreline Standards for Dredging and Excavation—The requirements below shall apply to all dredging and excavation activities within Shoreline jurisdiction.~~

8a) All applications for Substantial Development Permits that include dredging shall supply a dredging plan that includes the following information:

- i) — The quantity of material to be removed.
- ii) The method of removal.
- iii) Location -of- spoil- disposal- sites- and- measures- that -will- be- taken- to -protect- the environment around them.
- iv) Plans for the protection and restoration of the shoreline environment during and after dredging operations.

9b) A dredging operation judged by the Administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a Substantial Development permit.

~~16D.06.05.16-21~~ **Filling**

The following provisions shall apply to filling activities within shorelines:

- 1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section **16D.06.23** (Reclamation) ~~or approved compensatory mitigation plan under Section 16D.03.17(13).~~
- 2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.
- 3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero- rise methods such as piers, posts, columns, or other methods.
- 4) Fill in floodplains shall meet the requirements of chapter ~~Flood Hazard Plan Citation-16D-05-(Flood Hazards).~~
- 5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities.
- 6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.
- 7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

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8) Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.

9) Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.

10) Fill should not obstruct, cut off, or isolate stream corridor features.

~~11) Additional Shoreline Standards for Fill - The requirements below shall apply to all filling activities within Shoreline jurisdiction.~~

~~11a)~~ Fill projects shall be evaluated for effects on total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat.

~~12b)~~ Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of a Substantial Development Permit.

~~16D.06.05.17.22~~ Commercial Mining of Gravels

The following provisions shall apply to the commercial mining of gravels within shorelines:

~~1) 4)~~ Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:

~~2)~~

- a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation; ~~;~~ and
- b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation; ~~;~~ and
- c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.

2) The operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value.

3) Any surface mining allowed within the floodway shall meet the standards of ~~16D.05.36.010(1)~~ FLOOD HAZARD CODE CIOTATION HERE

4) Except where authorized by the City of XXXXXX ~~Yakima County~~ in consultation with the State Department of

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Fish and Wildlife and Department of Ecology, the following shall apply:

- a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high-water mark (OHWM) of the stream channel.
- b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.
- c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.

5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

~~6) Additional Shoreline Standards for Industrial Mining of Gravels. The requirements below shall apply to all mining activities within Shoreline jurisdiction.~~

~~6a)~~ Applicants shall submit a mining and reclamation plan to the Administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the Administrative Official to be insufficient for protection or restoration of the shoreline environment shall cause denial of a Substantial Development Permit.

~~7b)~~ Mining processing activities and stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.

~~8e)~~ Mining processing activities shall utilize existing and/or new vegetation where necessary to minimize visual and noise impacts.

~~4)~~ New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

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~~16D-06-05.1823~~ **Reclamation**

~~The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:~~

- 1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor.
- 2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed.
- 3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery.
- 4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in

adjacent and surrounding areas.

5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation.

6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the materials involved.

7) The replacement or enhancement of vegetation within wetlands and required vegetative buffers shall use naturally occurring, native plant species. In other parts of the stream corridor, naturally occurring, native plant species shall be used, unless a showing of good cause acceptable to the Administrative Official is provided, in which case self-maintaining or low-maintenance plant species compatible with native vegetation shall be preferred over non- native and high-maintenance species.

Article V SHORELINE USE DEVELOPMENT STANDARDS

~~16D.05.196.24~~ Forest Practices - The following provisions shall apply to Forest Practices, as defined, within Shoreline jurisdiction.

1) All federal forest practices or non-federal forest practices meeting the criteria below shall qualify for the exemption from development standards provided in 16D.03.13(2)(a). All forest practices qualifying for this provision shall demonstrate compliance by providing a copy of the federal approval or state Forest Practices Permit. Other forest practices must conform to all applicable development standards.

- a) harvest/treat at least 5 acres of forestland, or supporting such an operation; ~~;~~ and
- b) all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest), as amended; ~~;~~ and
- c) activities are not associated with a Conversion Option Harvest; ~~;~~ and
- d) approved under a forest practices permit; ~~;~~ and
- e) not associated with a harvest under a Class IV-General application to convert forest land to non-forestry use.

2) Non-federal forest practices NOT meeting criteria (a), (b), or (c) above are designated as a Conditional Use.

3) Non-federal forest practices NOT meeting criteria (d) above (Class 1 forest practices, activities not requiring DNR review, etc.) shall be reviewed as separate uses or activities.

4) Non-federal forest practices NOT meeting criteria (e) above shall be reviewed as a new proposed use.

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16D.05.206.25 Commercial and Community Services – The following provisions apply to any
development, construction, or use of land for commercial and commercial service purposes within
Shoreline jurisdiction.

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1) Developers shall insure that utility lines including electricity and communications will be underground, except where presence of bedrock or other obstructions make undergrounding impractical. Above ground lines in existence at the time of adoption of the Master Program shall be undergrounded during normal replacement processes.

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2) Water oriented commercial and community services uses shall be designed to facilitate public access to and enjoyment of nearby shoreline areas.

3) Application for new commercial or community services shall demonstrate either:

- a) How the use qualifies as a water-oriented use and how facilities function as such, or;
- b) That a non-water oriented use is part of a mixed use development that includes a water dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration, or;
- c) That a non-water-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

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4) Boating facilities, marinas and extended mooring sites shall:

a) comply with the health, safety and welfare standards of State and local agencies for such facilities; ; and

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b) be so located and designed as not to obstruct or cause danger to normal public navigation of water bodies; ; and

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c) be restricted to suitable locations; ; and

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d) avoid or mitigate for aesthetic impacts; ; and

e) mitigate special impacts of live-aboard vessels; ; and

f) —mitigate impacts to existing public access and navigation; ; and

g) provide documentation of ownership or authorization to use associated water areas; and

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h) demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design; ; and

i) —submit an operations and site plan demonstrating:

i) —location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality; ; and

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ii) proper water depth and flushing action for any area considered for overnight or

long-term moorage facilities; ~~;~~ and

iii) adequate facilities to properly handle wastes from holding tanks; ~~;~~ and

iv) that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access; ~~;~~ and

v) adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.

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~~16D.05.216-26~~ **Industrial Activities - The following provisions apply to any development, construction, or use of land for industrial purposes within Shoreline jurisdiction:**

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1) Facilities ~~and~~ structures ~~shall be~~ designed and ~~screened with~~ vegetation to minimize degradation of shoreline aesthetic qualities.

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2) Industries which have proven to be environmentally hazardous shall be discouraged from locating along the shorelines.

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3) Industrial uses and redevelopment of industrial uses shall provide for environmental cleanup and restoration in degraded or contaminated locations.

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4) Application for new industrial activities shall demonstrate either:

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a) How the use qualifies as a water-oriented use and how facilities function as such; ~~or~~ or

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b) That a non-water oriented use is part of a mixed use development that includes a water dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration, or;

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c) That a non-water-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

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~~16D.05.226-27~~ **Residential - The following provisions apply to any development, construction, or use of land for residential purposes within Shoreline jurisdiction.**

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1) Developers in the Urban, Natural and Urban Conservancy environments shall ensure that utility lines including electricity and communications will be underground, except where the presence of bedrock or other obstructions makes undergrounding impractical. Above ground lines in existence at the time of adoption of the Master Program shall be undergrounded during normal replacement processes.

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2) Plats of subdivisions containing land adjacent to publicly owned or controlled bodies of water shall allow for pedestrian access to such water bodies for residents of upland lots within the subdivision.

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3) Residential development and preliminary plats shall contain plans indicating how shore vegetation will be preserved and erosion controlled. A vegetation protection and/or erosion control plan judged by the Administrator to be insufficient for protection of the shoreline environment shall cause denial of an application.

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4) Subdivisions within the jurisdiction of the Master Program shall maintain an overall project density of one dwelling unit per one-half acre. Subsequent re-subdivision of any portion of the property contained in the original plat in order to increase density above that specified herein is prohibited.

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~~16D.05.236-28~~ Recreation - The following provisions apply to any development, construction, or use of land for recreational purposes within Shoreline jurisdiction.

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1) Recreational activities in the Urban and Rural Environment must be compatible with existing or proposed uses in the area and must not create a noise, traffic, visual or similar problem.

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2) No permanent structures are allowed in the natural environment.

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3) The location, design, and operation of recreational facilities shall be consistent with the purpose of the environmental designation.

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4) Access to recreational areas should emphasize both areal and linear access. Linkage of shoreline parks and public access points by means of linear access should be encouraged.

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5) Different uses within a specific recreational facility must be compatible with each other.

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6) Commercial components of the use that are not explicitly related to the recreational operation must also conform to the Commercial use standards of section ~~16D.06.25.05.20~~ (Commercial and Commercial Services).

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~~16D.05.246-29~~ Agriculture - For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC

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173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. To summarize, existing agricultural activities, including maintenance, repair, and replacement of existing facilities, may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.

1) Confinement feeding operations shall meet the following standards:

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a) Applicants shall submit a proposed site plan that indicates:

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i) _____ Maximum number and type of livestock to be kept on the site; ; and

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ii) Existing and proposed contour of the land and topographic features; ; and

iii) Groundwater profiles, streams and drainage ways; ; and

iv) Soil types; ; and

v) Existing and proposed building locations; ; and

vi) Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites; ; and

vii) Other use areas such as feed storage, animal movement routes and animal pens.

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b) A site plan judged by the Administrative Official to be insufficient for the protection of the shoreline environment shall cause denial of the application.

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2) New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.

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~~3) Rangeland livestock grazing may qualify for the exemption from Critical Areas development standards listed in 16D.03.13(2)(b).~~

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~~16D.05.256.30~~ **Aquaculture - The following provisions apply to any development, construction, or use of land for aquacultural purposes within Shoreline jurisdiction.**

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1) All structures located within water bodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.

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2) Aquaculture facilities shall avoid significant conflict with water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities.

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~~16D.05.266.31~~ ~~_____ Piers and Docks - The following provisions apply to any development, construction, or use of land for piers and docks within Shoreline jurisdiction.~~

1) Pier and dock construction shall be the minimum size necessary to meet the needs of the use.

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2) New pier or dock construction, excluding docks accessory to single-family residences must demonstrate that a specific need exists to support the intended water-dependent or public access use.

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3) New residential development of two or more dwellings must provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

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4) Docks, piers, and any other over-water structures for similar purpose, are prohibited in free-flowing streams and rivers in Yakima County. Bridge and trestle piers, flow measuring gauges, and existing irrigation diversion facilities are excluded from the prohibition in this section.

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Chapter XX.07 Critical Areas within Shorelines

XX.07.010 Applicability.

1. This section establishes standards and regulations pertaining to development within designated critical areas associated with shorelines regulated under the provisions of this chapter. Streams, stream corridors, and rivers, frequently flooded areas, wetlands, critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute the City of Toppenish's critical areas. These areas are of special concern to the people of Toppenish and the State of Washington because they are environmentally sensitive lands, or hazardous areas, which comprise an important part of the city's natural resource base. The policies, standards and procedures of this title are intended to:
 - a. Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions; and
 - b. Prevent further degradation of critical areas; and
 - c. Conserve, protect and, where feasible, restore essential or important natural resources; and
 - d. Protect the public health, safety, and general welfare; and
 - e. Further the goals and objectives of the City of TOPPENISH Comprehensive Plan and all of its elements; and
 - f. Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A) as it applies to Shoreline jurisdiction, the Shoreline Management Act (RCW Chapter 90.58), and the National Flood Insurance Program; and
 - g. Recognize and protect private property rights; and
 - h. Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Variance, Reasonable Use provisions and Non-Conforming Use and Facility provisions; and
 - i. Manage for no net loss of ecological function within Shoreline jurisdiction to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life; and
 - j. Establish a consistent foundation of regulations that apply to similar issues whether they are inside or outside Shoreline jurisdiction. Additional protection measures required because of Shoreline Master Program updates to this title are identified as applying within Shoreline jurisdiction and are not intended to be applied outside Shoreline jurisdiction; and
 - k. Recognize that mining is a unique use because of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use when conducted consistent with the policies and provisions of WAC 173-26-241(h), within all Shoreline Designations, except the Natural and Floodway/CMZ Environments.
2. In addition, the policies, standards and procedures of this title are not intended to:
 - a. Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that

have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance (YCC Title 16C) or Shoreline Master Program (YCC Title 16D);

- b. Are not intended to result in an unconstitutional taking of private property;
- c. Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance (YCC Title or of the Shoreline Master Program (YCC Title 16D); but rather to use compensatory mitigation as a tool to mitigate impacts of new development;
- d. Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with nonregulatory tools in as balanced a manner as possible;
- e. Are not intended to prohibit the use of valid water rights

XX.07.030 Relationship to other regulations.

- 1. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.
- 2. These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.

XX.07.090 Jurisdiction – Critical areas.

- 1. The city shall regulate all uses, activities, and developments within, adjacent to, or likely to affect one or more critical areas, consistent with the best available science and the provisions herein.
- 2. Critical areas regulated by this chapter include:
 - a. Wetlands;
 - b. Frequently flooded areas;
 - c. Critical aquifer recharge areas;
 - d. Fish and wildlife habitat conservation areas;
 - e. Habitats and species of local importance as established in TMC 17.70.095.
- 3. All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

XX.07.100 Protection of critical areas.

- 1. Any action taken pursuant to this chapter shall result in at least equivalent functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with TMC 17.70.240, Mitigation sequencing. Applicants must first demonstrate an inability to avoid impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

2. This chapter shall be interpreted to ensure, among other things, that no harm shall occur in critical areas as a result of activities and developments, but it shall not require enhancement of critical areas where such critical areas were degraded prior to the proposed land use activity or development, or where previously existing critical areas no longer exist.

XX.07.110 Best available science.

1. Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish.
Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.
2. Best Available Science to Be Consistent with Criteria in WACs. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925.
 - a. Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:
3. Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;
4. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
5. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;

6. Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods;
7. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
8. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.
 - a. Nonscientific Information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include the following:
9. Anecdotal Information. One or more observations that are not part of an organized scientific effort (for example, "I saw a grizzly bear in that area while I was hiking");
10. Nonexpert Opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, "I do not believe there are grizzly bears in that area"); and
11. Hearsay. Information repeated from communication with others (for example, "At a lecture last week, Dr. Smith said there were no grizzly bears in that area").
 - a. Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the director shall:
12. Take a precautionary or a no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
13. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - a. Address funding for the research component of the adaptive management program;
 - b. Change course based on the results and interpretation of new information that resolves uncertainties; and
 - c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries.

Article II. Applicability, Exemptions, Exceptions and General Standards

XX.07.170 General requirements.

1. As part of this review, the city shall:
 - a. Verify the information submitted by the applicant;
 - b. Evaluate the project area and vicinity for critical areas;
 - c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 - d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
2. If the proposed project is within or is likely to impact a critical area, the city shall:
 - a. Require a critical area report from the applicant that has been prepared by a qualified professional;
 - b. Review and evaluate the critical area report;
 - c. Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in TMC 17.70.280, Review criteria;
 - d. Assess the potential impacts to the critical area and determine if they can be avoided or minimized;
 - e. Determine if mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter; and
 - f. Assess all residential and commercial redevelopment according to the following criteria and requirements. Standard buffer widths on legal lots or parcels recorded prior to the effective date of the ordinance codified in this chapter may be reduced by the administrator upon the receipt and consideration of a critical area report as required under TMC 17.70.210 and 17.70.220. In addition to the requirements of such critical area report, the report shall include recommendations for the buffer width and mitigation from the experienced, qualified professional who produced the critical area report, provided the applicant for a development permit or other city approval demonstrates:
 - i. The lot was improved with a legally constructed structure prior to the effective date of the ordinance codified in this chapter. Current or continued occupancy is not required to meet this standard.
 - ii. The legally constructed structure is currently present on the lot or was removed pursuant to a demolition permit approved by the city prior to the effective date of the ordinance codified in this chapter.
 - iii. The existing buffer or critical area has been degraded by past legal land uses and is currently in a degraded state.

- iv. The applicant mitigates for the proposed buffer to result in no net loss of buffer functions per best available science.
- v. The applicant provides in the critical areas report a discussion comparing the functions provided by the existing buffer and the functions provided by the proposed buffer with mitigation demonstrating no net loss of function.
- vi. The applicant provides for the protection of the reestablished buffer and critical area in perpetuity through one or more of the following measures:
 - 1. Subdivisions, commercial developments, and multifamily residential developments completed under this section shall dedicate all buffers and critical areas as a critical area tract recorded prior to the issuance of an occupancy permit or other final city approval.
 - 2. Single-family development and boundary line adjustments shall record a notice of the title of affected properties identifying the presence and location of buffer widths and adjoining critical areas. Recording the notice on title shall occur prior to occupancy permits or other final city approvals and follow the procedure and requirements contained in TMC 17.70.360.

XX.07.180 Critical area pre-application consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this chapter may request a consultation meeting with the administrator prior to submitting an application for development or other approval. At this meeting, the administrator shall discuss the requirements of this chapter; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

XX.07.190 Critical area information form.

- 1. Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under TMC 17.70.130, Exemptions, or allowed pursuant to TMC 17.70.160, Allowed activities, the applicant shall submit to the department complete information regarding the critical area on the application for the underlying development, on forms provided by the city.
- 2. Site Inspection. Upon receipt of a project application and the necessary information regarding the critical area, the administrator shall conduct a site inspection to review critical area conditions on site. The administrator shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

3. Critical Area Information Review Process. The administrator and/or his/her designee shall review the critical area information form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

a. Decision Indicators. The administrator may use the following indicators to assist in determining the need for a critical area report:

i. Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;

ii. Information and scientific opinions from appropriate agencies, including but not limited to the Washington State Department of Fish and Wildlife and the Yakama Nation;

iii. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area;

iv. A finding by a qualified professional, or a reasonable belief by the administrator, that a critical area may exist on or adjacent to the site of the proposed activity.

4. Decision on Critical Area.

a. No Critical Areas Present. If after a site visit the administrator's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the administrator shall rule that the critical area review is complete and note on the underlying application the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.

b. Critical Areas Present, But No Impact – Waiver. If the administrator determines there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the administrator may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

i. There will be no alteration of the critical area or buffer;

ii. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter; and

iii. The proposal is consistent with other applicable regulations and standards. A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

c. Critical Areas May Be Affected by Proposal. If the administrator determines that a critical area or areas may be affected by the proposal, then the administrator shall notify the

applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

5. Effect of Administrator's Determination. A determination regarding the apparent absence of one or more critical areas by the administrator is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. (Ord. 2011-6 § 2 (Exh. A), 2011).

XX.07.210 Critical area report – Requirements.

1. Preparation by Qualified Professional. If required by the administrator in accordance with TMC 17.70.190(D)(3), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.
2. Incorporation of Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.
3. Minimum Report Contents. At a minimum, the report shall contain the following:
 - a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 - i. A copy of the site plan for the development proposal including;
 - ii. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - d. Identification and characterization of all critical areas, water bodies, and buffers adjacent to the proposed project area;
 - e. Identification of the channel migration zone if applicable;
 - f. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 - g. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

- h. A description of reasonable efforts made to apply mitigation sequencing pursuant to TMC 17.70.240, Mitigation sequencing, to avoid, minimize, and mitigate impacts to critical areas;
- i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with TMC 17.70.250, Mitigation plan requirements, including, but not limited to:
 - i. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - ii. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
- j. A discussion of the performance standards applicable to the critical area and proposed activity;
- k. Financial guarantees to ensure compliance; and
- l. Any additional information required for the critical area as specified in the corresponding chapter.

4. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the administrator.

XX.07.220 Critical area report – Modifications to requirements.

- 1. Limitations to Study Area. The administrator may limit the required geographic area of the critical area report as appropriate if:
 - a. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the subject site.
- 2. Modifications to Required Contents. The applicant may consult with the administrator prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.
- 3. Additional Information Requirements. The administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:
 - a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
 - b. Grading and drainage plans; and

c. Information specific to the type, location, and nature of the critical area.

XX.07.350 Critical area markers and signs.

1. The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
2. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.
3. These provisions may be modified by the administrator as necessary to ensure protection of sensitive features or wildlife needs.

XX.07.360 Notice on title.

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall record a notice with the county auditor. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."
2. The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

XX.07.370 Subdivisions.

1. The subdivision of land within wetlands, wetland buffers and fish and wildlife habitat conservation areas shall be subject to the following:
 - a. Each proposed lot must have sufficient area outside of the critical area and associated buffer to accommodate all development outside of the critical area and buffer. (Ord. 2011-6 § 2 (Exh. A), 2011).

XX.07.390 Bonds to ensure mitigation, maintenance, and monitoring.

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.
2. The bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

3. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the city attorney and with a company authorized to do business in the state of Washington.
4. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
5. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
6. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
7. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.
8. Any funds recovered pursuant to this section shall be used to complete the required mitigation and reimburse the city for its costs relating to the enforcement action.

Article III. Wetlands

XX.07.410 Designation, rating, and mapping wetlands.

1. Designating Wetlands. Wetlands are those areas meeting the definition of "wetland" in accordance with TMC 17.70.035. All areas within the city meeting the definition of wetland are hereby designated as critical areas and are subject to the provisions of this article.
2. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology Wetland Rating System found in the Washington State Wetland Rating System documents Washington State Wetland Rating System for Eastern Washington – Revised (Publication No. 04-06-015, Hruby, T., 2004) or as revised. These documents contain the definitions and methods for determining if the criteria below are met.
 - a. Category I.
 - i. Characteristics of Category I wetlands are as follows:
 1. Represent a unique or rare wetland type; or
 2. Are more sensitive to disturbance than most wetlands; or

- 3. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; and
 - 4. Provide a high level of function.
 - ii. Category I wetlands are:
 - 1. Alkali wetlands; or
 - 2. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNS as high quality wetlands; or
 - 3. Bogs; or
 - 4. Mature and old-growth forested wetlands over one-fourth acre with slow-growing trees; or
 - 5. Forests with stands of aspen; and
 - 6. Wetlands that perform many functions very well (scores of 70 points or more).
- b. Category II.
 - i. Characteristics. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.
 - ii. Category II wetlands are:
 - 1. Forested wetlands in the floodplains of rivers; or
 - 2. Mature and old-growth forested wetlands over one-fourth acre with fast-growing trees; or
 - 3. Vernal pools; and
 - 4. Wetlands that perform functions well (scores between 51 and 69 points).
- c. Category III.
 - i. Characteristics. Wetlands having a moderate level of function which do not satisfy Category I, II, or IV criteria.
 - ii. Category III wetlands are:
 - 1. Vernal pools that are isolated; and
 - 2. Wetlands with a moderate level of functions (scores between 30 and 50 points).
- d. Category IV.
 - i. Characteristics. These are wetlands with the lowest level of function but still provide functions that warrant protection. Often the low function is because they have been heavily disturbed. Replacement of these wetlands can sometimes provide improved function.
 - ii. Category IV wetlands have a function score of less than 30.

e. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

3. Mapping. The approximate location and extent of potential wetlands are shown on the critical area maps adopted with this chapter and listed below. Other maps may also be used as they are developed and subsequently adopted by the city. Soil maps produced by the U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation:

- a. City of Toppenish Wetlands and Water Bodies Inventory Map – Figure 1.5 of the Toppenish comprehensive plan.
- b. The exact location of a wetland's boundary shall be determined in accordance with the procedure outlined in WAC 173-22-035 through the performance of a field investigation by a qualified professional wetland scientist applying the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94, 1997).

XX.07.420 Critical area report – Requirements for wetlands.

- 1. All critical areas located within or near the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for wetlands.
- 2. Wetland Analysis. A written assessment of the wetland, the appropriate wetland type, and required buffer under the provisions of this chapter.
- 3. As provided for under TMC 17.70.220, the administrator may require additional information to be included in the critical area report when determined to be necessary for the review of the proposed activity. Additional information for wetlands that may be required includes, but is not limited to, the following:
 - a. Vegetative, faunal, and hydrologic characteristics;
 - b. Soil and substrate characteristics;
 - c. Topographic elevations;
 - d. A discussion of water sources supplying the wetland and documentation of the hydrologic regime. Such discussion shall include an analysis of existing and future hydrologic regimes.

and proposed hydrologic regime for enhanced, created, or restored mitigation areas, if provided for in the project.

XX.07.430 Performance standards – General requirements.

1. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas. Full compensation for the acreage and loss functions will be provided under the terms established under TMC 17.70.440(F) and (G).
2. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this chapter.
3. Category I Wetlands. Activities and uses shall be prohibited from Category I, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this chapter.
4. Category II and III Wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply:
 - a. Water-dependent activities, as defined by the city's shoreline in this chapter, may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
 - b. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:
 - i. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and
 - ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.
5. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impact may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, but only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.
6. Wetland Buffers.
 - a. Buffer Requirements. The standard buffer widths in Table 17.70.430(F)(1) have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.

- i. The use of the standard buffer width requires the implementation of the measures in Table 17.70.430(F)(2), where applicable.
- ii. When an applicant chooses not to apply the mitigation measures in Table 17.70.430(F)(2) then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with mitigation measures would become a 100-foot buffer without them.
- iii. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
- iv. Based on the wetland score, additional buffer widths may be required. For example, a Category I wetland scoring of 32 points for habitat function would require a buffer of 150 feet (75 + 75).

Table XX.07.430(F)(1)
– Required Wetland Buffers

<u>Wetland Category</u>	<u>Standard Buffer Width</u>	<u>Additional Buffer Width if Wetland Scores 21 – 25 Habitat Points</u>	<u>Additional Buffer Width if Wetland Scores 26 – 29 Habitat Points</u>	<u>Additional Buffer Width if Wetland Scores 30 – 36 Habitat Points</u>
<u>Category I: Based on total score</u>	<u>75 ft.</u>	<u>Add 15 ft.</u>	<u>Add 45 ft.</u>	<u>Add 75 ft.</u>
<u>Category I: Forested</u>	<u>75 ft.</u>	<u>Add 15 ft.</u>	<u>Add 45 ft.</u>	<u>Add 75 ft.</u>
<u>Category I: Bogs</u>	<u>190 ft.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Category I: Alkali</u>	<u>150 ft.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Category I: Natural heritage wetlands</u>	<u>190 ft.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Category II: Based on total score</u>	<u>75 ft.</u>	<u>Add 15 ft.</u>	<u>Add 45 ft.</u>	<u>Add 75 ft.</u>

<u>Category II: Vernal pool</u>	<u>150 ft.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Category II: Forested</u>	<u>75 ft.</u>	<u>Add 15 ft.</u>	<u>Add 45 ft.</u>	<u>Add 75 ft.</u>
<u>Category III:</u>	<u>60 ft.</u>	<u>Add 30 ft.</u>	<u>Add 60 ft.</u>	<u>N/A</u>
<u>Category IV:</u>	<u>40 ft.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

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Table XX.07.430(F)(2)
– Source-Specific Wetland Mitigation Requirements

<u>Disturbance</u>	<u>Required Measures to Minimize Impact</u>
<u>Lights</u>	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u>
<u>Noise</u>	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft. of wetland</u> • <u>Apply integrated pest management practices</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment of roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters the buffer</u> • <u>Use low intensity development techniques (per Puget Sound Action Team (PSAT) publication 05-3 or as updated)</u>
<u>Change in water regime</u>	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>

<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the eco-region</u> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>
<u>Disruption of corridors or connections</u>	<ul style="list-style-type: none"> • <u>Maintain connections to off-site areas that are undisturbed</u> • <u>Restore corridors or connections to off-site habitats by replanting</u>

b. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers.

c. Increased Wetland Buffer Widths. In those situations in which a SEPA checklist discloses that the above buffer widths may not be sufficient to mitigate the significant adverse environmental impacts of the proposal on the wetland, the administrator may invoke the procedures in Chapter 18.04 TMC and WAC 197-11-158. The administrator may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. The increased buffer width shall not exceed a maximum of 100 percent increase over the buffer width that would otherwise be required by subsection (F)(1) of this section. This determination shall be based on one or more of the following criteria:

- i. A larger buffer is needed to protect other critical areas;
- ii. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
- iii. The adjacent land has minimal vegetative cover or slopes greater than 30 percent. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the wetland;

iv. The wetland contains plant and/or animal species listed by the federal and/or state government as sensitive, endangered, threatened, candidate monitored or documented priority species habitats or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees.

d. Wetland Buffer Width Averaging. The administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

i. It will not reduce wetland functions or functional performance;

ii. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

iv. The buffer at its narrowest point is never less than either three-fourths of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

e. Interrupted Buffer.

i. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt; provided, that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.

- ii. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.
- f. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.
- g. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers and buffers of mitigation sites shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- h. Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
 - i. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - ii. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:
 - 1. Walkways and trails; provided, that those pathways which are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the buffer area, and should be designed to avoid the removal of significant trees. Trails must be constructed with a surface that does not interfere with the permeability. Raised boardwalks utilizing nontreated pilings may be acceptable;
 - 2. Wildlife viewing structures; and
 - 3. Fishing access areas down to the water's edge that shall be no larger than six feet.
 - iii. Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided, that:
 - 1. No other location is feasible; and
 - 2. The location of such facilities will not degrade the functions or values of the wetland. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
- i. Signs and Fencing of Wetlands.

i. Temporary Markers. The outer perimeter of the wetland and buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the administrator prior to the commencement of permitted activities. The administrator shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the wetland and its associated buffer area. This temporary marking, and any required temporary fencing, shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

j. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

i. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post, or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot square and no larger than two feet by two feet square; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the administrator and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the administrator:

Protected Critical Area

Do Not Disturb

Contact the City of Toppenish

Regarding Uses and Restrictions

ii. The provisions of subsection (G)(2)(a) of this section may be modified by the administrator as necessary to assure protection of sensitive features or wildlife.

XX.07.440 Performance standards — Compensatory mitigation requirements.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the state Department of Ecology Guidelines for Wetland Mitigation in Washington State, Parts 1 and 2, Publication Nos. 06-06-011a and 06-06-011b, March 2006.

1. Mitigation shall be required in the following order of preference:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action.
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations.
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- 2. Mitigation for Affected Functions or Functions Lost as a Result of the Proposed Activity.

Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost by the proposed activity, except when:

 - a. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
 - b. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
- 3. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:
 - 1. Restoring wetlands on upland sites that were formerly wetlands.
 - 2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
- 4. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.
- 5. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except when all of the following apply:
 - a. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a

determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

c. Off-site locations shall be in the same subdrainage basin unless:

i. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or

ii. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

6. Mitigation Timing.

a. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

b. The administrator may authorize a one-time temporary delay, up to 120 days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints which preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

7. Wetland Mitigation Ratios. Wetland mitigation ratios shall be as established in Table 17.70.440(F).

Table XX.07.440(F)
– Wetland Mitigation Ratios

<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment</u>	<u>Rehabilitation</u>	<u>Enhancement</u>	<u>Preservation</u>
<u>Category I: Bog, natural heritage site</u>	<u>Not permitted</u>	<u>6:1</u>	<u>Case by case</u>	<u>10:1</u>

<u>Category I: Mature forested</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>	<u>24:1</u>
<u>Category I: Based on functions</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>	<u>20:1</u>
<u>Category II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>	<u>20:1</u>
<u>Category III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>	<u>15:1</u>
<u>Category IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>	<u>10:1</u>

8. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following standards:
- a. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in TMC 17.70.210, 17.70.220 and 17.70.420.
 - b. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements:
 - i. A written report consisting of:
 1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; identification of all the local, state, and/or federal wetland related permit(s) required for the project; and a vicinity map for the project.
 2. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
 3. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings of this chapter.
 4. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation

actions are not undertaken (i.e., how would the site progress through natural succession?).

5. A description of the proposed mitigation construction activities and timing of activities.

6. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

7. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs for remaining wetlands and compensatory mitigation wetlands.

8. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

9. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

ii. Scaled plan sheets for the compensatory mitigation depicting:

1. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.
2. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of the on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.
3. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

4. Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.
5. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.
6. A plant schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of species by community type, and the timing of installation.
7. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.

9. Wetland Mitigation Banks.

- a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - i. The bank is certified under Chapter 173-700 WAC;
 - ii. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification
- b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
- c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Article IV. Frequently Flooded Areas

XX.07.500 Designation and mapping of frequently flooded areas.

All areas within the city meeting the frequently flooded designation criteria are hereby designated critical areas and are subject to the provisions of this chapter. Frequently flooded areas have been accurately delineated based on hydrologic and hydraulic studies completed as part of the National Flood Insurance Program by the Federal Emergency Management Agency in the Flood Insurance Study for Yakima County.

Washington, and incorporated areas dated November 18, 2009, and any subsequent amendment. The methodology and detail of these studies is accepted as the best available science.

XX.07.510 Classification of frequently flooded areas.

1. The flood areas in the city are classified as either one of two types:
 - a. Floodway. "Floodways" are defined as the channel of a stream and adjacent land areas which are required to carry and discharge the flood water or flood flows of any river or stream associated with a regulatory flood.
 - b. Flood Fringe. The "flood fringe" is defined as that land area which is outside a stream's floodway, but is subject to periodic inundation due to flooding, associated with a regulatory flood.

XX.70.520 Existing regulations pertaining to frequently flooded areas.

Chapter 15.30 TMC regulates proposed activities within frequently flooded areas. If allowed, any structures permitted in the designated flood areas are subject to flood-proofing regulations of this chapter. The existing regulations were adopted after careful study and fulfill the requirements of the Growth Management Act for protection of frequently flooded areas.

Article V. Fish and Wildlife Habitat Conservation Areas

XX.07.640 Designation of fish and wildlife habitat conservation areas.

1. Fish and wildlife habitat conservation areas include:
 - a. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.
 - i. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.
 - ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington and identified by the Washington Department of Fish and Wildlife which are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and

sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

b. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).

c. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

2. Appendix "A" of chapter 17.70 identifies stream corridors subject to protection; however, all areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science.

3. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted with the ordinance codified in this chapter by the city, as most recently updated. The following maps and data are hereby adopted and are available from the city and/or the listed governmental agency:

a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Washington State Department of Natural Resources, Official Water Type Reference Maps, as amended; and

c. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington Conservation Commission.

The above maps are to be used as a guide for the city, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. The above maps are a reference and do not provide a final critical area designation.

XX.07.650 Critical area report – Requirements for habitat conservation areas.

1. All critical areas located within or near the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for habitat conservation areas.

2. Habitat Analysis. A habitat assessment to include at a minimum the following:

a. Detailed description of vegetation on the project area and its associated buffer.

b. Identification of any endangered, threatened, or candidate species that have a primary association with habitat on the project area, and assessment of potential project impacts to use of the buffer and critical area on the site by the species.

c. A detailed discussion of the direct and indirect potential impacts on habitat by the project. Such discussion shall include a discussion of the ongoing management practices that will protect habitat after the project site has been developed.

XX.07.660 Performance standards – General requirements.

1. Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.
2. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.
3. Approvals of Activities. The administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:
 - a. Establishment of buffer zones;
 - b. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
 - c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
 - d. Seasonal restriction of construction activities;
 - e. Establishment of a duration and timetable for periodic review of mitigation activities; and
 - f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
4. Mitigation to Equivalent Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve at least equivalent biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.
5. Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.
6. Buffers.
 - a. Establishment of Buffers. The administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall be designed to address the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall consider the management recommendations issued by the Washington Department of

Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of critical area tracts in accordance with TMC 17.70.380.

b. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply.

7. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the administrator prior to the commencement of permitted activities. The administrator shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the habitat conservation area and its associated buffer area. This temporary marking, and any required temporary fencing, shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

i. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot and no larger than two feet by two feet; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the administrator and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the administrator:

Protected Critical Area

Do Not Disturb

Contact the City of Toppenish

Regarding Uses and Restrictions

XX.07.670 Performance standards – Specific habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington

Department of Fish and Wildlife, the Yakama Nation and other applicable state or federal agencies.

2. Anadromous Fish.

- i. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or where such fish have a primary association shall give special consideration to the preservation of anadromous fish habitat, including, but not limited to, adhering to the following standards:
 - ii. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife and Yakama Nation for the applicable species;
 - iii. An alternative alignment or location for the activity is not feasible;
 - iv. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
 - v. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and
 - vi. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.
- b. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in TMC 17.70.440, wetlands. If nonwetlands habitat and wetlands are present at the same location, the provisions of this article or Article III of this chapter, Wetlands, whichever provides greater protection to the habitat, apply.

4. Riparian Habitat Areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the stream buffers.

- a. Establishment of Stream Buffer Areas. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.
- b. Stream Buffer Widths. Required stream buffer widths shown in Table 17.70.670(D)(1) have been established in accordance with the best available science. Buffers are subject to the following:

- i. Widths shall be measured outward in each direction, on the horizontal plane from the channel migration zone if delineated, the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified.
- ii. Stream buffers must be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of in-stream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.
- iii. The buffer width may be reduced or averaged by the administrator upon recommendation of the wetland report and consultation with affected agencies and tribes.
- iv. Increased Stream Buffer Widths. In those situations in which a SEPA checklist discloses that the buffer widths as established in Table 17.70.670(D)(1) may not be sufficient to mitigate the significant adverse environmental impacts of the proposal, the administrator may invoke the procedures in Chapter 18.04 TMC and WAC 197-11-158. The administrator may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. The increased buffer width shall not exceed a maximum of 100 percent increase over the buffer width that would otherwise be required by subsection (D)(2) of this section. This determination shall be based on one or more of the following criteria:
 - 1. A larger buffer is needed to protect other critical areas;
 - 2. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse stream impacts; or
 - 3. The adjacent land has minimal vegetative cover or slopes greater than 30 percent. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the stream or its buffer;
 - 4. The stream or its buffer contains plant and/or animal species listed by the federal and/or state government as sensitive, endangered, threatened, candidate monitored or documented priority species habitats or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees.

- v. The use of the standard buffer width requires the implementation of the measures in Table 17.70.670(D)(2), where applicable.
- vi. When an applicant chooses not to apply the mitigation measures in Table 17.70.670(D)(2), then a 33 percent increase in the width of all buffers is required. For example, a 75- foot buffer with mitigation measures would become a 100-foot buffer without them.
- vii. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table XX.07.670(D)(1)

– Required Stream Buffers

<u>Stream Classification</u>	<u>Minimum Buffer Width</u>	<u>Minimum Width of Mitigated Buffer</u>
<u>Type 1</u>	<u>200</u>	<u>100</u>
<u>Type 2</u>	<u>75</u>	<u>50</u>
<u>Type 3</u>	<u>75</u>	<u>50</u>
<u>Type 4</u>	<u>50</u>	<u>25</u>
<u>Type 5</u>	<u>25</u>	<u>15</u>

Table XX.07.670(D)(2)

– Source-Specific Stream Buffer Mitigation Requirements

<u>Disturbance</u>	<u>Required Measures to Minimize Impact</u>
<u>Lights</u>	• <u>Direct lights away from buffer area</u>
<u>Noise</u>	• <u>Locate activity that generates noise away from buffer area</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u>

	<ul style="list-style-type: none"> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer edge of the buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from the buffer while ensuring the buffer area is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft. of the ordinary high water mark of the stream</u> • <u>Apply integrated pest management practices</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment of roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters the buffer</u> • <u>Use low intensity development techniques (per Puget Sound Action Team (PSAT) publication 05-3 or as updated)</u>
<u>Change in water regime</u>	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the eco-region</u> • <u>Place buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>
<u>Disruption of corridors or connections</u>	<ul style="list-style-type: none"> • <u>Maintain connections to off-site areas that are undisturbed</u> • <u>Restore corridors or connections to off-site habitats by replanting</u>

- c. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, stream buffers shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- d. Stream Buffer Width Averaging. The administrator may allow the recommended stream buffer width to be reduced in accordance with a critical area report only if:
- i. The width reduction will not reduce stream or habitat functions, including those of non-fish habitat;

- ii. The width reduction will not degrade the habitat, including habitat for anadromous fish;
 - iii. The proposal will provide additional habitat protection;
 - iv. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
 - v. The recommended stream buffer width is not reduced by more than 25 percent in any one location;
 - vi. The width reduction will not be located within another critical area or associated buffer; and
 - vii. The reduced stream buffer width is supported by the best available science.
- e. Interrupted Buffer.
- viii. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt; provided, that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.
 - ix. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.
- f. Riparian Habitat Mitigation. Mitigation of adverse impacts to stream buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.
- g. Alternative Mitigation for Stream Buffers. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater

habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

5. Aquatic Habitat. The following specific activities may be permitted within a stream buffer, pond, lake, water of the state, and associated buffer when the activity complies with the provisions set forth in the applicable shoreline management program and subject to the standards of this subsection. The standards that provide the most protection to protected habitat and species shall apply

a. Stream Bank Stabilization. Stream bank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

b. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

- i. There is no other feasible alternative route with less impact on the environment;
- ii. The crossing minimizes interruption of downstream movement of wood and gravel;
- iii. Roads in stream buffers shall not run parallel to the water body;
- iv. Trails shall be located on the outer edge of the buffer, except for limited viewing platforms, crossings and limited trails;
- v. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
- vi. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;
- vii. Road bridges are designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and
- viii. Trails and associated viewing platforms shall not be made of continuous impervious materials.

c. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:

- i. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
- ii. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
- iii. The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

iv. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

v. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

vi. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

d. Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.

e. In-Stream Structures. In-stream structures, such as, but not limited to, high flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the agency with jurisdiction and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

f. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

i. No other feasible alternatives with less impact exist;

ii. Mitigation for impacts is provided;

iii. Stormwater conveyance facilities shall incorporate fish habitat features; and

iv. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

Article VI. Critical Aquifer Recharge Areas

XX.07.700 Designation of critical aquifer recharge areas.

1. The Growth Management Act (Chapter 36.70A RCW) requires local jurisdictions to protect areas with a critical recharging effect on aquifers used for potable water or areas where drinking aquifers are vulnerable to contamination. These areas are referred to as critical aquifer recharge areas (CARAs) in this section. Potable water is an essential life sustaining element. The city of Toppenish sources its municipal water exclusively from ground water supplies. Once ground water is contaminated it can be difficult and costly to clean. The quality of ground water in an aquifer is inextricably linked to its recharge area.

2. Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. The following areas have been identified based on local conditions:

- a. Vulnerable Ground Water Recharge Areas. Soils throughout the city of Toppenish have a moderate to high permeability rate. In addition, the depth to ground water throughout the city is shallow. Accordingly, contaminants released on the ground may infiltrate into and pollute the ground water table. The entire city of Toppenish has been designated as a vulnerable ground water recharge area.
- b. Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the 10-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135. The city of Toppenish wellhead protection plan is a component of the water systems plan.

XX.07.710 Regulations pertaining to critical aquifer recharge areas.

1. The following provisions are in place to protect critical aquifer recharge areas and regulate activities that might potentially impact these areas:
 - a. Eastern Washington Stormwater Design Manual as published by the State of Washington Department of Ecology.
 - b. City of Toppenish wellhead protection plan.
 - c. State and federal regulations applicable to specific uses including but not limited to those provided in TMC 17.70.730(G).

XX.07.720 General requirements pertaining to critical aquifer recharge areas.

1. Activities in a critical aquifer recharge area must be conducted in such a manner as to not adversely affect the recharging of the aquifer and such that the activity will not cause contaminants to enter the aquifer.
2. Activities within a wellhead protection area pursuant to TMC 17.70.700(B)(2) must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, state Department of Health, and the city's wellhead protection plan.
3. Developments must be designed and constructed in accordance with surface/stormwater management requirements of the Eastern Washington Stormwater Management Manual as published by the State of Washington Department of Ecology.

XX.07.730 Development standards for specific activities in critical aquifer recharge areas.

1. Connection to Public Sewer. Pursuant to Chapter 13.28 TMC, all new development must be connected to public sewer.
2. Connection to Public Water. Pursuant to Chapter 13.08 TMC, all new development must source its potable water from the city of Toppenish municipal water system.
3. Storage Tanks. All storage tanks must comply with local building code requirements and must conform to the following requirements:
 - a. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
 - iii. Use materials in the construction or lining of the tank that is compatible with the substance to be stored.
 - b. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
 - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
 - iii. Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
4. Stormwater Disposal. Systems for the disposal of stormwater from impervious surfacing of all new development must be designed in accordance with the provisions of the Eastern Washington stormwater design standards.
5. Vehicle Repair and Servicing. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
6. Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the Departments of Ecology and Health including:
 - a. Surface spreading must meet the ground water recharge criteria given in RCW 90.46.010(10) and 90.46.080.

b. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

7. State and Federal Regulations. The uses listed in Table 17.70.730(G) shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Table XX.70.730(G)
– State and Federal Aquifer Recharge Regulations

<u>Activity</u>	<u>Statute Regulation Guideline</u>
<u>Above Ground Storage Tanks</u>	<u>WAC 173-303-640</u>
<u>Animal Feedlots</u>	<u>Chapters 173-216 and 173-220 WAC</u>
<u>Automobile Washers</u>	<u>Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)</u>
<u>Below Ground Storage Tanks</u>	<u>Chapter 173-360 WAC</u>
<u>Chemical Treatment Storage and Disposal Facilities</u>	<u>WAC 173-303-182</u>
<u>Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)</u>	<u>Chapter 173-303 WAC</u>
<u>Injection Wells</u>	<u>Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC</u>
<u>Junk Yards and Salvage Yards</u>	<u>Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146)</u>
<u>Oil and Gas Drilling</u>	<u>WAC 332-12-450, Chapter 173-218 WAC</u>
<u>Pesticide Storage and Use</u>	<u>Chapters 15.54 and 17.21 RCW</u>

<u>Sawmills</u>	<u>Chapters 173-303 and 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)</u>
<u>Solid Waste Handling and Recycling Facilities</u>	<u>Chapter 173-304 WAC</u>
<u>Surface Mining</u>	<u>WAC 332-18-015</u>
<u>Waste Water Application to Land Surface</u>	<u>Chapters 173-216 and 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture</u>

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STREAMS IDENTIFIED AS FISH AND WILDLIFE HABITAT CONSERVATION CORRIDORS

The following stream reaches within the city of Toppenish and its urban growth area are designated as critical areas. Any stream segments abutting federal lands or any Indian trust lands within the Yakama Indian Reservation are excluded.

STREAM NAME STREAM CLASS

- | | |
|---------------------------|----------|
| <u>1. Wanity Slough</u> | <u>3</u> |
| <u>2. Toppenish Drain</u> | <u>3</u> |

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